23639

(18,895.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903.

No. 261.

MERRITT CHANDLER, APPELLANT,

vs.

ROSCOE D. DIX, AUDITOR GENERAL OF THE STATE OF MICHIGAN; JAMES H. KERR, COUNTY TREASURER OF ALPENA COUNTY, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN.

INDEX.

	Original.	Print.
Caption	1	1
Bill of complaint	3	2
Exhibit A—List of lands	52	29
Præcipe for appearance of Roscoe D. Dix	100	56
Entry of appearance of Roscoe D. Dix	101	56
Præcipe for appearance of Louis Bruder	103	58
Entry of appearance of Louis Bruder	104	58
Demurrer of auditor general	105	59
Præcipe for appearance of Allen T. Martindale	110	63
Entry of appearance of Allen T. Martindale	112	64
Demurrer of Thomas D. James	115	65
Demurrer of Allen T. Martindale	118	68
Præcipe for appearance of Herman Lunden	123	71
Entry of appearance of Herman Lunden	124	72
Demurrer of Louis Bruder	125	73
Demurrer of James H. Kerr	130	76
Notice setting demurrers down for argument	135	79

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., MARCH 10, 1904.

	Original.	Print
Demurrer of Herman Lunden	136	80
Order sustaining demurrers	141	83
Amended bill of complaint	143	84
Exhibit A—List of lands	194	113
Demurrer of auditor general	210	121
Samuel J. Smith	213	123
Allen T. Martindale	216	125
A. A. Bruder	219	127
Christian A. Oppenhorn	222	129
Willard T. Warren	225	131
Decree sustaining demurrers and dismissing bill and amended bill	228	132
Opinion	230	134
Assignments of error	233	135
Petition for appeal	234	136
Order allowing appeal	235	136
Bond on appeal	236	137
Order extending time to make return until March 28	239	138
Order extending time to make return until April 7	240	139
Order extending time to make return until April 13	241	139
Citation	242	140
Acceptance of service of citation	243	140
Clerk's certificate	244	141

1 & 2 Supreme Court of the United States.

MERRITT CHANDLER, Appellant,
v.
ROSCOE D. DIX, Auditor General of the State of Michigan; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County, Appellees.

Return to Claim of Appeal

From the circuit court of the United States for the eastern district of Michigan, northern division. In equity.

Messrs. McKay & McKay, Eddy building, Saginaw, Michigan, solicitors for appellant.

George W. Weadock, Esq., Saginaw, Michigan, of counsel.

Horace M. Oren, Esq., Lansing, Michigan, solicitor for Roscoe D. Dix.

James Collins, Esq., Alpena, Michigan, solicitor for James H. Kerr.

George E. Frost, Esq., Cheboygan, Mich., solicitor for Thomas D. James.

Lewis W. Ostrander, Atlanta, Mich., solicitor for Herman Lunden, and Louis Bruder.

Albert M. Hilton, Esq., Gaylord, Mich., solicitor for Allen T. Martindale.

3 Pleas of the Circuit Court of the United States for the Eastern District of Michigan, in Equity, of the May Term, 1900.

MERRITT CHANDLER
vs.
ROSCOE D. DIX, Auditor General of the State of Michigan; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County; James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinnan, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelton, William Reid, Charles Bellant, and Francis E. Partridge, John Cain, James Fenlow, David Bowen, Mathias King, Joseph Villeburn, Everett F. Merrill, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwell, John D. Knause and Company, Salling, Hanson and Company, Hanson and Barker, Ramson Hanson, William McPherson, Jr., Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwick, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. MacNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Murner, F. A. Baldwin, and F. A. Kramer. } No. 35.

Bill of Complaint.

And now on this day, that is to say, on Sept. 19th, 1900 comes the complainant, Merritt Chandler, by John A. McKay his attorney, and files in said court a bill of complaint, which bill of complaint is in words and figures following, to-wit:--

4 To the judges of the circuit court of the United States for the eastern district of Michigan, northern division, in equity:

Merritt Chandler, of Onaway, Michigan, and a citizen of the United States, and of the State of Michigan and of the eastern district thereof, brings this his bill of complaint in the northern division of the eastern district of Michigan against Roscoe D. Dix, auditor general of the State of Michigan, James H. Kerr, county treasurer of Alpena county, Thomas D. James, county treasurer of Cheboygan county, Herman Lunden, county treasurer of Montmorency county,

Allen S. Martindale, county treasurer of Otsego county, and Louis Bruder, county treasurer of Presque Isle, all in the State of Michigan and James E. Holcombe of Wolverine, Michigan; Cheboygan Leather Company of Cheboygan Michigan; Pfister and Vogel Leather Company, Hugh McKinnan, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelton, William Reid, Charles Bellant, and Francis E. Partridge of Cheboygan Michigan; John Cain and James Fenlow of Manning, Cheboygan county, Michigan; David Bowen of Forest township, Cheboygan county, Michigan; Mathias King of Indian River, Cheboygan county, Michigan, Joseph Villebarn of Ocqueoc, Presque Isle county, Michigan; Everett F. Merrill of Onaway Michigan; Charles A. Begle Eliza Rivers, and Grace Harbor Lumber Company of Grace Harbor Michigan; Herman Besser and Monroe Klock of Alpena, Michigan; William R. Kendrick and Lewis H. Cornwell of Saginaw, Michigan; John D. Knause and Company of Bay City, Michigan; Salling, Hanson and Company, Hanson and Barker, and Ramson Hanson of Grayling Michigan; William McPherson, Jr., of Howell Michigan, Fredrick D. Larke and Charles H. Osgoode of Rogers City, Michigan;
5 and John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwick, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. MacNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Murner, F. A. Baldwin, and F. A. Kramer whose places of residence are unknown to your orator, all of said defendants so far as your orator knows being citizens of the State of Michigan.

And thereupon your orator complains and says:

1. That he is the owner in fee simple of the original or Government title to the lands mentioned and described in the schedule hereto attached and marked Exhibit "A" and hereby made a part hereof, which said lands so described and included in said schedule are situate in the said counties of Cheboygan, Otsego, Presque Isle, Montmorency and Alpena, in the said State of Michigan and district aforesaid; and that your orator derived title thereto directly from the Government as evidenced by patents now in his possession or through mesne conveyances from the patentee thereof.

2. The matters and amount in dispute herein, exceed the sum and value of two thousand ($2000.00) dollars, exclusive of all interest costs and charges.

3. That claiming to act under and in accordance with the provisions of certain laws of the State of Michigan, said Roscoe D. Dix, auditor general of the State of Michigan as aforesaid and his predecessors in office and James M. Kerr county treasurer of Alpena county, Thomas D. James, county treasurer of Cheboygan county, Herman Lunden county treasurer of Montmorency county,
6 Allen S. Martindale, county treasurer of Otsego county and Lewis Bruder county treasurer of Presque Isle county and their predecessors in office have attempted, and are attempting, to

enforce collection of certain alleged taxes against your orator and the said lands of your orator by the sale of the said lands which said laws with the title thereof and the date when the same went into force are as follows :—

"An act for the uniform assessment of property and for the collection and return of taxes thereon" being act No. 169, of the Public Acts of the State of Michigan of 1869 as amended being compiler's sections 1001 to 1216 inclusive of volume 1 of Howell's Annotated Statutes of the State of Michigan, which went into effect April 6, 1869 and is commonly known as the tax law of 1869.

"An act to provide for the assessment of property and the levy and collection of taxes thereon" being act No. 9 as enacted by the legislature of the State of Michigan at its special session in 1882 as amended, being the appendix to volume 1 of Howell's Annotated Statutes of the State of Michigan, which went into effect March 14, 1882 and is commonly known as the tax law of 1882.

"An act to provide for the assessment of property and the levy and collection of taxes thereon" being act No. 153 of the Public Acts of the State of Michigan of 1885 which went into effect June 9, 1885, being compiler's sections 1169*l* to 1169 x 3 inclusive of volume III. of Howell's Annotated Statutes of the State of Michigan and is commonly known as the tax law of 1885.

7 "An act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore or hereafter levied" being act No. 195 of the Public Acts of the State of Michigan of 1889 as amended, being compiler's sections 1170*d* to 1173*d* inclusive of volume III, of Howell's Annotated Statutes of the State of Michigan, which went into effect June 27, 1889, and is commonly known as the tax law of 1889.

"An act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore and hereafter levied and to repeal act No. one hundred and ninety-five of the Session Laws of One thousand eight hundred and eighty nine except as provided in this act, and all other acts or parts of acts in anywise contravening any of the provisions of this act" being act No. 200 of the Public Acts of the State of Michigan of 1891, as amended, which went into effect October 6th, 1891, and is commonly known as the tax law of 1891.

"An act to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes heretofore and hereafter levied; making such taxes a lien on the land taxed, establishing and continuing such lien, providing for the sale and conveyance of lands delinquent for taxes, and for the inspection and disposition of lands bid off to the State and not redeemed or purchased, and to repeal act No. 200 of the Public Acts of 1891 and all other acts and parts of acts in anywise contravening any

8 of the provisions of this act" being act No. 206 of the Public Acts of the State of Michigan of 1893, as amended, being compiler's sections 3824 to 3962 inclusive of the Compiled Laws of

1897, of the State of Michigan and commonly known as the tax law of 1893.

That all said laws of the State of Michigan with the exception of the tax law of 1893, as amended, that is to say, the said tax laws of 1869, 1882, 1885, 1889 and 1891, as amended, have been repealed and the assessment sale and disposition of your orator's said lands and of all taxes and alleged tax claims and tax titles against your orator and his said lands are now governed by the provisions of said tax laws of 1893 as amended.

4. That said laws are unconstitutional and void and confer no authority on said auditor general, said county treasurers or his or their predecessors, agents and purchasers from him or through them for the reasons hereinafter more specifically set forth.

5. That most of the proceedings taken by the auditor general of the State of Michigan and by the several county treasurers mentioned regarding said lands were taken under the general tax law of 1882 and the other general tax laws subsequently adopted, although some proceedings were taken under the general tax law of 1869; and that claiming to act under and in accordance with the provisions of said tax laws certain charges, purporting to be assessments aggregating ten thousand ($10,000.00) dollars and upwards have been made under said laws against your orator and his said lands, for various years from and including the year 1878 to the present time:

which said charges are, for the reasons hereinafter set forth,
9 invalid, illegal and based upon unconstitutional laws: which said charges however, said Roscoe D. Dix, auditor general of the State of Michigan, James M. Kerr, county treasurer of Alpena county, Thomas D. James, county treasurer of Cheboygan county, Herman Lunden, county treasurer of Montmorency county, Michigan, Louis Bruder county treasurer of Presque Isle county, Michigan, and Allen S. Martindale county treasurer of Otsego county Michigan, the same being the counties in which said lands are situate, now hold for collection and have attempted and are attempting and will and are about to collect and enforce collection of the same by the past or future sale of your orator's said lands.

6. That your orator is and always has been since and previous to the year 1880 a large property owner in the State of Michigan and in the eastern district thereof, as herein indicated, and has contributed a large amount in taxes to the said State and the said municipalities, that is said counties and the townships thereof wherein he held property to wit:—$25,000.00 to $35,000.00 and upwards and has at all times been ready and willing to pay his just and equal share of the public taxes; but said laws furnish no rule capable of producing reasonable equality in the assessment of taxes but on the contrary discriminate against your orator and his said lands and make it legally impossible to apportion the public burden with approximate equality and result in gross inequality in the assessment of taxes and in arbit-ary exactions from your orator and his said lands contrary to the constitution of the State of Mich-

igan and that of the United States, particularly to the XIVth amendment of the Constitution of the United States in this;
10 that they deny him the equal protection of the law and deprive him of his property without due process of law.

7. That the constitution of the State of Michigan provides in article XIV, section 12, that all property shall be assessed at its cash value; but that in all said laws the legislature departed from and violated the said constitutional provision by enacting that the words "cash value" wherever used in said acts should be held to mean the usual selling price at the place where the property to which the term is applied, shall be at the time of assessment, being the price which could be obtained therefor at private sale and not at forced or auction sale, whereby a rule different from that laid down and prescribed by the said constitution was prescribed by the legislature in said laws; and the said rule as enacted by the legislature has been applied by the officers entrusted and charged with enforcement of the said laws, and the said property of your orator, thereby assessed at a value greater than the true cash value thereof, and your orator thereby made liable to contribute a larger, grossly unequal and entirely disproportionate amount, the true cash value of his property being considered, to the public funds, than as if said constitutional provision were followed your orator being thereby denied the equal protection of the law and deprived of his property without due process of law in violation of the constitution both of the State of Michigan and of the United States.

8. That the legislature of the State of Michigan by thus defining the term "cash value" legally construed the same thereby exercising, in violation of the system of government which obtains in the United States and the various States thereof, judicial func-
11 tions, and rendered such legislative judgment or decree in the absence of and in advance of any hearing or showing regarding such construction; that such construction is manifestly erroneous, and deprives your orator of the rights and privileges secured to him by the Constitution of the United States.

9. That said lands of your orator consisted almost entirely of wild and unimproved lands from many of which the timber has been entirely or partially removed.

10. That said lands of your orator have at all times been assessed at other than their actual or true cash value and at other than their "cash value" as that term is employed in article XIV, section 12 of the constitution of said State and have been thereby discriminated against as well as your orator and your orator has thereby been denied the equal protection of the law and deprived of his property without due process of law.

11. That your orator's said lands have been assessed at a higher valuation than those of others in the same township, for example, your orator's said lands, meaning unimproved lands, have been assessed at a higher figure and valuation than neighboring or adjoin-

ing lands not differing in natural value, upon which buildings have been erected and improvements have been made.

For example, your orator received from said State of Michigan, in payment of contracts with it or purchased in the open market from others who had received the same from the State of Michigan, certain credits called scrip, which said credits or scrip, your orator exchanged for said lands at the rate of one acre of land for every one dollar and twenty-five cents (1.25) in scrip, and as soon
12 as said lands became your orator's, the assessing officers immediately placed an assessed valuation thereon of five dollars ($5.00) per acre and have maintained such excessive valuation although adjoining and improved lands with buildings etc., were assessed at a less valuation; and said assessing officers and the board of review refused to lower said excessive valuation even in cases where the supervisor or assessing officer of the township desiring to purchase some of said lands, so assessed at five dollars ($5.00) per acre, offered therefor the sum of one ($1.00) — per acre and refused to purchase where your orator offered to take for said lands at first one dollar and seventy-five cents ($1.75) per acre and finally one dollar and fifty cents ($1.50) per acre; which said alleged assessments then and at all times thereby worked a fraud both in fact and in law upon your orator, denied him the equal protection of the law, unjustly discriminated against him and his said lands and deprived him of his property without due process of law, in violation both of the Constitution of the State of Michigan and of the United States, particularly the XIVth amendment of the latter.

12. That under the constitution and laws of the State of Michigan, your orator's lands have been subjected to double and grossly unequal taxation by reason of the fact that each year the deficit of the previous year or of a proceeding year or years has been included in and made part of the taxes assessed upon your orator's said lands that is to say: that as required by article XIV, sec. 1, of the said constitution of the State of Michigan, the legislature and executive officers of the State government include each year in the estimates of the amounts to be raised by taxation and raise by taxation
13 throughout the State, an amount to cover such deficiency as occurs each year in the resources of the State; and thus each succeeding year since the adoption of the present constitution in 1850, the taxes assessed against any lands and remaining unpaid the preceding year have been included in the general estimates and assessed generally upon all lands, thus collecting and paying by such assessment all State taxes remaining unpaid in each year; and said delinquent taxes were and are thus collected and paid one year or thereabouts in advance of the time when by law said lands could or can be sold for said taxes. And the same course and system have been followed in the assessment and collection of the township, city and county taxes, and each year the taxes remaining unpaid are collected by general re-assessment the following year, or in a subsequent year.

This system of collecting the taxes results in grossly unequal, double, duplicate, recurring and cumulative and in effect progressive assessments and taxation and in the taxation of one county and township for the benefit of another or others, and your orator and his said lands were and are subjected to said method and thereby to grossly unequal, duplicate, double, recurring and cumulative assessment and taxation which is destructive and from which your orator and the county or municipality in which he resided or had property received no benefit, so that all rules of apportionment were violated by all assessments, and taxation in all said years upon all said lands in contravention and violation of the Constitution of the United States particularly the XIVth amendment thereof in this—that said constitutional provision of the State of Michigan and the method of assessment and taxation followed in pur-
14 suance thereof deny to your orator the equal protection of the law and deprive him of his property without due process of law; and shifts the taxes from one tax payer and one municipality to another.

13. That by law and as a constitutional right your orator was entitled to a hearing as to the assessment of his said lands before an impartial tribunal and one authorized by the constitution and not obnoxious to the Constitution of the United States; but your orator has been denied such right and opportunity, and none of said laws provide such an opportunity.

For example, the tax law of 1869 provides that all property shall be assessed by the supervisor of each township, and that such supervisor shall review the assessment so made, said supervisor thereby becoming in effect the judge in the matter in which he is interested, for both in making and reviewing said assessments so made by him, said supervisor acts in a judicial manner, and his decision is final.

And under said tax laws of 1882, 1885, 1889, 1891, and 1893, the supervisor of each township acts as the assessor in assessing property and with two electors chosen at the annual town meeting constitutes the board of review to review said assessments so made by said assessors, but said board of review as so constituted exercises judicial powers of the same nature as said supervisor, in violation of the Constitution both of the United States and that of the State of Michigan; and it is provided that the decision of said board shall be final.

14. That all of said laws contain provisions in force during
15 their operation requiring the officers entrusted with the administration of said laws and the assessment of property thereunder to make demand upon your orator for a statement upon which to base the assessment of his property thereunder and that no such demand was or has been at any time made upon him.

15. That all of said laws contain provisions which were in force while said laws were in operation requiring the officers entrusted with the administration and the collection of taxes thereunder to demand payment of said taxes from all persons against whom, or

whose property, taxes had been assessed; but that no such demand was at any time made upon your orator.

16. That all of said laws contain provisions which were in force while said laws were in operation requiring the officers entrusted and charged with the administration thereof and the collection of all taxes assessed thereunder to collect all of said taxes so assessed by seizing the personal property of such person to whom the said taxes were assessed to an amount sufficient to pay such taxes as were assessed against said lands together with all fees and charges for subsequent sale, wherever the same may be found in the county in which such officers reside or in an adjoining county, but that although said counties are adjoining and in all said counties your orator at all times had sufficient personal property subject to seizure as aforesaid out of which such taxes, if any such taxes had been levied against it, his said lands or himself, could have been collected, yet at no time has such seizure been made or any attempt to do so.

17. That at all times and in each and every year from and previous to said year 1880 down to and including the time
16 of filing this bill of complaint there were large quantities of personal property the amounts, kinds, and owners being too great and numerous to specify, not belonging to your orator in each of said counties and the townships thereof where your orator's lands are situate subject to taxation, which were not assessed but were entirely fraudulently and intentionally omitted from the assessment rolls whereby the amount of taxes assessed against your orator his said lands and property was rendered excessive, unfair, grossly unequal and disproportionate.

18. That all said laws are void unjust and unconstitutional and deprive your orator of his property without due process of law and deny to him the equal protection of the law for the reason that they do not provide for the uniform and equal assessment of property but tax one municipality or property in one municipality for the benefit of another, that is to say:—that personal property is, according to the provisions of said laws assessed variously at the residence of the owner thereof, at the situs of said personal property; or at the destination of said personal property being a place other than its situs, which may also be a place other than either its situs or the residence of the owner thereof, and said laws do not furnish any rule or classification to determine how or where such property shall be thus variously assessed but the provisions thereof are contradictory and contrary to your orator's rights under the Constitution both of the State of Michigan and that of the United States.

(18[2].) That said laws do not furnish rules of classification based upon relative differences and existing distinctions in property
17 and resting upon an intelligible and reasonable foundation; but the same are arbitrary and discriminating.

19. In so far as said laws attempt to provide for a judicial determination of the validity of any alleged assessment and taxation thereunder more particularly the laws of 1882, 1887, 1891 and 1893,

which provide a different system for selling lands for taxes from what prevailed previous to 1882, the same are unconstitutional and void and obnoxious to the constitution of the State of Michigan and of the United States for the reasons:—

(1.) That said laws particularly those of 1882, 1889, 1891 and 1893, do not observe the constitutional separation of the powers of government into legislative, executive and judicial, but blend them and cause the officers of one department to trespass upon the sphere and perform the duties and functions of the others contrary to the constitution of the State of Michigan and the Constitution of the United States both article IV, section 4, thereof guaranteeing to every State a republican form of government: and the XIVth amendment thereof.

(2.) That the proceedings under said laws particularly those of 1882, 1889, 1891 and 1893 are based upon an order purporting to be process of court which said process however is defective because not as required by law and the constitution of the State of Michigan. "In the name of the people of the State of Michigan."

(3.) That your orator has never been served personally with process in any proceedings under said laws; and said laws do not provide for personal service of process, except said law of 1889.

18 (4.) That said laws and proceedings do not distinguish between residents and non-residents; but the decree or judgment taken thereunder purports to be a personal decree without personal service; and a published notice thereunder is attempted to be made the equivalent of personal notice.

(5.) That said proceedings cannot be upheld as proceedings *in rem* for the reason that said lands were never seized into possession so as to constitute notice to your orator by the court or said auditor general or his predecessors and for the further reason that said proceedings are had in a court of equity.

(6.) That the decree or decrees in the ostensible legal proceedings under said law is or are in effect pronounced by the legislature and not by the court.

(7.) That there is no judicial record of said proceedings and none provided for by law although said matters are by law cognizable only by a court of record; and said circuit courts of the State of Michigan are by law and custom courts of record.

(8.) That there is not and cannot be, under the Constitution of the United States and that of the State of Michigan such a court as the legislature has attempted to create in and by said laws for hearing and disposing of tax matters and proceedings, and the system and proceedings inaugurated by the tax law of 1882 were up to that time unknown in the State of Michigan, and had not been due process of law up to that time and are not such now, were and are unusual proceedings, and were not contemplated when the present constitution was adopted in 1850.

(20.) That said laws and the proceedings thereunder are confis-

catory in their nature and not mutual in their operation;
19 and attempt to deprive your orator of his property without adequate consideration in this to wit:

(1.) That said laws and the proceedings thereunder, provide a means and method only by which your orator is deprived of his lands and property but none by which it shall be preserved, retained or restored if wrongfully included in said proceedings or taken in violation of the rights of the owner.

(2.) That said laws and the proceedings thereunder attempt to deprive your orator of his property without adequate consideration therefor, and provide no method by which your orator, in case of the sale of his lands, can obtain the fair value thereof.

For example, said tax law of 1893 provides that the lands shall be sold not with reference to their value, as determined by assessment or otherwise, but to the person who will pay the tax and take the least undivided interest in the lands therefor, while under former laws it was for a specified interest to be set apart under the statutory rule *e. g.* from the north side of the parcel sold, which said methods of sale are contrary to all legal and customary method of judicial or public sales, and discourage bidding at such tax sales for the reason that every person who would become the purchaser of the undivided interest in the parcel offered that would correspond to the amount of the tax for which the same is offered as compared with the total cash value of such parcel takes into consideration the fact that the purchase of an undivided portion of the parcel offered may mean a law suit to have the premises so sold partitioned, and the amount of his purchase set off to him
20 (said purchaser) so that in practice and effect the entire interest in the lands offered, is sold for the taxes; and said method of selling is illegal for the reason that the statutory rule governing the attempted sale of such lands takes into account only the amount claimed against said lands which, on the basis of the assessment and rate of taxation is only a small fraction of the total cash value, although the evidence of the latter is on the roll before the State officers, when making such sale, and such system or method of selling for taxes does not consider the entire value of the lands attempted to be sold for taxes and provides no method by which the surplus value between the alleged tax for which the land is being sold and the total cash value can be saved or preserved to the owner.

(3.) That the decrees made in the proceedings under which the alleged sales of said lands were held do not provide for the redemption of said lands although such redemption is provided for by law.

(4.) That said laws grant exemptions of both real and personal property from taxation based upon no other distinction than the amount of property possessed by the tax payer which is a classification according to wealth.

21. That said laws do not comply with article IV, section 20, of the constitution of the State of Michigan which provides that "No

law shall embrace more than one object which shall be expressed in its title."; and particularly the general tax law of 1893 is open to this objection, and the laws purporting to be amendatory thereof to-wit—acts Nos. 25, 154, 162 and 229 of the Public Acts of 1895; acts Nos. 206, 214, 224, 225, 229, 240 and 261 of the Public
21 Acts of 1897 and acts Nos. 31, 32, 83, 97, 107, 154, 169, 204, 215, 239, 262 and 264, of the Public Acts of 1899 in this that said amendatory acts introduce objects not included in said act No. 206 of the Public Acts of 1893, the same being the general tax law, and in no wise amendatory thereof, and many of said laws so far from being purely amendatory are repealing statutes; but are not so entitled. All said laws further violate said provision of the constitution by prescribing periods of limitation within which tax-titles can be contested, and defining offences and providing penalties for the commission thereof, which said objects are not contained in the title of said laws.

22. That said laws attempt by curative provisions to dispense with notices, forms, records, the performance of acts, and meetings of boards etc., within, during and at the time fixed by law, and other requirements of said laws to the prejudice of your orator and in contravention and violation both of the Constitution od the United States, and that of the State of Michigan: and further said curative provisions are under the decisions of the supreme court of the State of Michigan, so construed as to deny to the landowner and taxpayer a hearing and the opportunity to be heard.

23[1]. That said act No. 206 of the Public Acts of 1893 as amended is unconstitutional and void for the following reasons:—

1. That it does not provide any uniform and equal rule of taxation or such rule of apportionment as is essential to taxation but discriminates against property and individuals as, for example, under the provisions of section 19, of said act, banks and companies incorporated and unincorporated are permitted to deduct their
22 indebtedness from the gross amount of their personal property; while in the case of vessel property, the owner whether a corporation or individual is permitted to deduct its or his indebtedness from the entire amount of its or his property while in the case of an individual not engaged in banking or not doing business under a corporate name or not engaged in the vessel business, his indebtedness can be deducted only from his personal credits; from which said section 19, it appears clearly that it is the intention of the legislature to permit deductions of indebtedness from other property in order to determine the amount of property which shall be assessed to any individual or corporation, and from sections 5 and 11 of said act it further appears that corporations and individuals stand alike and upon the same footing before the law so far as their assessment and taxation is concerned and are subject to the same rules of assessment and taxation; but it is impossible to apply the foregoing sections and rules of assessment and taxation to the property of persons, including corporations, and particularly to your orator and his said

lands and property without producing great injustice and gross inequality in the assessment and taxation of the same and thereby causing discrimination against, and confiscation of, his property and thereby denying him the equal protection of the law and depriving him of his property without due process of law in contravention and violation of the Constitution both of the United States and of the State of Michigan.

(2.) That the courts of the State of Michigan in exercising the powers imposed by the said general tax laws are courts of special and limited jurisdiction and could and can exercise only
23 those powers if any, conferred by the said laws and can now exercise only those powers if any conferred by the statute known as the general tax law of 1893, as amended; that said tax law of 1893 provides by section 61, what the petition filed by the auditor general for the sales of lands delinquent for taxes shall *continue*, and, amongst other things, said section 61, provided, until amended by act No. 262, of the Public Acts of 1899, that lands bid off to the State while so held shall not be included in said petition of the auditor general; but said lands while claimed to be so bid off and so held by the State were so included in said petitions of the auditor general filed in each year and said petitions and the record or records of said court failed to show affirmatively in any given case that said lands while so included in said petitions were not lands bid off in the name of the State and thus held and it was necessary that such petition or record should make such showing before the court would have or acquire jurisdiction; and the court in every instance has attempted to exercise such jurisdiction and has professed to proceed to a decree and sale of said lands without such showing; and in doing so said courts acted entirely without jurisdiction and it is attempted thereby to deprive your orator of his said lands in contravention and violation of the XIVth amendment of the Constitution of the United States.

(3.) That said law as interpreted by the supreme court of the State of Michigan attempts, even where under the provisions of said law and the decisions of said supreme court the attempted sales of lands for delinquent taxes are entirely without jurisdiction, to compel, the landowner to institute proceedings to set aside such void sales
24 or lose his lands, claiming that the land-owner delaying to attack an absolutely void sale can be guilty of laches and thus lose his remedy, thereby threatening to deprive your orator of his property without due process of law in violation of the Constitution of the United States and of the State of Michigan.

(4.) That under the provisions of said law if there are no bidders for any of the lands offered for sale for delinquent taxes, said lands so offered and for which no bids are made, are bid off by the county treasurer in the name of the State for the State county and township in proportion to the taxes, interest and charges due each; and if so bid off to the State for consecutive years the said lands so bid off under the provisions of said law, may, without any hearing or opportunity

to the owner or others interested therein to be heard, be declared homestead lands and opened for entry as State homestead lands at the price of ten cents per acre, coupled with other conditions including five years' continuous residence on said lands and improving the same; that when so set apart for homestead lands, all the taxes thereon are cancelled and said lands are thereupon exempted from taxation; and lands including some lands of your orator have been so homesteaded in the counties and townships in which your orator's said lands are situate whereby your orator and his said lands have been discriminated against and a greater burden imposed upon him and them, and the credits property and money of said townships and counties confiscated by the State with resulting loss to, and increased taxation of, your orator and his lands, thereby denying to your orator equal protection of the law and depriving him of his property without due process of law.

25 (5.) That the general tax law of 1893 as amended by act No. 154 of the Public Acts of 1899 provides for a board of State tax commissioners, which said board, it is claimed, has been organized under said act and acting under its pretended powers threatens to carry the same into effect in spite of the fact that the powers conferred upon said board are unconstitutional and void for the following, amongst other reasons, to-wit:

(*a.*) That said board is not authorized by the constitution of the State of Michigan and exercises powers, for example, of local self-government and judicial powers, without any constitutional warrant, and in spite of the fact that said powers are, to the exclusion of said board or other body created by the legislature, lodged elsewhere.

(*b.*) That said board is authorized and attempts to make, change and alter at its will local assessments after the same have been made by the legally constituted assessor of each municipality and reviewed in the manner prescribed by law and even after payment of taxes based upon such assessment:

(*c.*) That the powers conferred upon said board, carried into effect, are taxation without representation.

(*d.*) That the powers conferred upon said board are inimical to and destructive of the principle of local self-government inherent in the institutions of the State of Michigan and of the United States.

(*e.*) That said act confers and said board as organized thereunder attempts to exercise judicial powers contrary to law, and to adjudicate and pass upon the rights of your orator and deprive him of his property without due or any process of law and with-

26 out trial by jury as by law he is entitled to.

(*f.*) That said board pretending to act under said law, exercises inquisitorial powers, contrary to the Constitution of the United States and amendments thereof; and said laws by which said board is constituted abridges the rights, privileges and immunities of your orator as a citizen of the United States by subjecting him to unreasonable searches:

(*h.*) That said law provides in case of its violation for punishments which are uncertain, cruel, double excessive and unusual:

(*h.*) That although said board as created by said law, comprises three members yet contrary to due process of law, it is not by the provisions of said law required to act as a board and be governed by a majority vote of its members; but each member may exercise all its powers separate and apart from each other, and the board thus be in session in three places at once.

(*i.*) That said board attempt- to institute proceedings and inquiries not authorized by law and this in the exercise of legislative powers improperly delegated to it by the legislature.

(*j.*) That said law and the provisions thereof governing said board attempt to confer absolute power and authority upon said board thereby making the decisions of said board and of its several members final and preventing your orator from resorting to the courts for the determination of any question of which said board claims to have jurisdiction:

(*k.*) That those persons now claiming to be, and act as members of said board are not legally appointed and are attempting to
27 hold office as such members without the consent of the senate of the State of Michigan as required by said law:

(*l.*) That said law compels a person to become a witness against himself, and to give testimony upon which criminal charges could be based and criminal prosecutions maintained contrary to the rights, privileges and immunities of your orator as a citizen both of the State of Michigan and of the United States.

(*m.*) That said law is vague, uncertain and undefinite in its terms and provisions, and therefore void and unconstitutional.

(*n.*) That said law provides that said board may issue subpœnas to witnesses, to appear and testify to-wit your orator, presumably at the will of said board, anywhere in the State of Michigan to-wit:—in a place and county long distant from and other than the home, residence and place of business of such witnesses, without compensation; and on failure of such witness to wit, your orator, to obey the subpœna of said board said law provides that upon proper showing of service of, and refusal to obey, such subpœna attendance of such witnesses may be compelled by attachment to be issued by any circuit court in the State, presumably a circuit court of a county other than that of the residence, home, and place of business of such witnesses, when as a matter of fact the circuit court is, in the State of Michigan, organized by counties, and the jurisdiction thereof is local to each county and does not run into other counties as herein attempted, which said proceedings, as by said law authorized, are therefore without jurisdiction and do not constitute due process of law.

28 (*o.*) That said law defines and provides punishments for alleged offences committed against the provisions of said act: but the title thereof does not contain or intimate that said act is penal in its scope or the said law in its administration; thereby contain-

ing objects not embraced in the title contrary to the constitution of the State of Michigan and depriving your orator of his property without due process of law.

(23².) That said laws as construed by the courts and executive officers of the State of Michigan are unconstitutional; and are systematically construed and enforced in violation of your orator's fundamental rights as a citizen of the United States.

24. That by the constitution of the State of Michigan, article IV, section 22, it is required that all printing for the executive departments and all other printing ordered by the legislature shall be let by contract to the lowest bidder or bidders who shall give adequate and satisfactory security for the performance thereof, and the printing of the tax lists provided for by said laws is printing for the executive departments and printing ordered by the legislature; but, so far from contracting for the same, the auditor general under the authority of said laws but in violation of said constitutional provision pays therefor to a partisan newspaper designated by him the sum of forty cents per description and attempts to collect the same by sale of your orator's lands, which said sum of forty cents is an exorbitant and unreasonable charge compared with what the same would cost if let by contract; and is taking of your orator's property without due process of law. And that five (05c.) cents per description would be a reasonable charge for said printing.

29 25. That the auditor general formerly included as a charge against each description of land, your orator's said lands amongst the others, the sum of seventy cents, now made one dollar for costs of advertising and other expenses of sale, which said sum is included in and made a part of such charges before any part thereof with the exception of the advertising, is incurred and with the exception of said advertising, no expenses are incurred in and by said sale that have not already been provided for and included in the salary of the clerks or officials performing any service or duty under said laws and proceedings all of which said expenses of sale as aforesaid are included in the taxes for which said lands are attempted to be sold whereby it is attempted to collect twice from your orator the same amount and to impose upon him and his said lands a double exaction for one and the same charge thereby attempting to charge him for services not performed amounting to from $400.00 to $800.00 per annum thus depriving him of his property without due process of law: and it is attempted to collect said charges and expenses of sale against said lands where the proceedings for sale and the sales as well as the taxes were invalid and neither the State nor the auditor general was entitled to judgment therefor.

26. That said laws all provide, in case of non-payment of alleged taxes claimed to be payable thereunder for payment of a collection fee, in addition to the interest upon said alleged taxes as provided by said laws, said collection fee to be collected therewith, if said alleged taxes are not paid when claimed to be due, which said col-

lection fee, upon each year's alleged taxes, is included in
30 and made part of the charges etc., for which it attempted to sell said lands, although all expenses of sale and collection are already included in and form a part of the alleged taxes assessed against said lands and for which it is attempted to sell said lands, whereby it is attempted to make a double charge against your orator and his said lands for one and the same item, and thereby deprive him of his property without due process of law, and such collection fee is an unreasonable and unjust charge and even if collectible under the former tax laws is not, now that said laws have been repealed, reasonable or recoverable.

27. That said tax laws impose various rates of interest upon delinquent and unpaid taxes which rate of interest has now been fixed by act No. 262 of the Public Acts of 1899 at the rate of one per cent. per month and it is attempted to apply the same to all taxes whether assessed before or after the passage of said law, or under said law of 1893 or a former law or laws, which said rate of interest is more than double the rate of simple legal interest in the State, is a penalty, and is unreasonable and amounts to the confiscation of your orator's property and the taking of the same without due or any process of law.

28. That no valid and legal taxes have been assessed against your orator and his said lands; but that all alleged charges purporting to be taxes etc., against him and his said lands are illegal, void and unconstitutional.

29. That all of the taxes assessed in each year upon said lands and the sale of said lands therefor are invalid and illegal for one or more of the following reasons, in addition to those given else-
31 where herein, as your orator is informed and believes, that is to say:

(1.) That the township taxes where voted by the township board were so voted,

(*a.*) Without any showing or it appearing of record anywhere that the qualified electors had neglected or refused to vote such sums of money as were necessary to defray the ordinary township expenses.

(*b.*) Without it appearing that said taxes were necessary to defray the ordinary township expenses or were for ordinary township expenses.

(*c.*) That said taxes were voted for other than township expenses and exceeded the sum, in any one year, of one thousand dollars.

(2.) That said townships counties and the State levied generally delinquent taxes, instead of charging the same back to the land, townships and county delinquent therefor.

(3.) That the various taxes levied both singly and in the aggregate exceed the percentage and amount prescribed by law.

(4.) That one per cent. has been added to the amount of the several taxes to be raised by the assessor for the purpose of avoiding fractions in the computation.

(5.) That said taxes have never been legally equalized and large classes of property omitted in any attempted equalization.

(6.) That said taxes have never been lawfully apportioned.

(7.) That said townships have been assessed and said taxes
32 levied on said lands for the benefit of other townships in said counties in the State of Michigan.

(8.) That said lands have not been assessed in the name of the owner thereof although the assessor knew or could have ascertained the name thereof.

(9.) That there was no warrant attached to the rolls for the collection of taxes and that said taxes on said lands have been prematurely, improperly and illegally returned delinquent.

(10.) That the tax roll was not signed by the supervisor.

(11.) That the minutes and proceedings of the board of supervisors were not signed by the chairman and county clerk as required by law.

(12.) That the board of review in the several townships did not sit for the period required by law.

(13.) That the board of review did not certify to the tax rolls as required by law.

(14.) That some of said taxes are placed on the tax rolls in the column which does not designate them.

(15.) That where drain taxes have been levied, ten per cent. has been added to the amount of the estimated cost.

(16.) That the county treasurer in selling did not observe the requirements of law as to the order and time of sale of different parcels, particularly of those sold to the State.

(17.) That in the auditor general's proceedings in each of said years said lands have been included in the auditor general's petition while held by the State on State bids.

(18.) That in each of said proceedings for the taxes of each of said years, the decree was made prematurely, and the court there-
33 by, if it ever had acquired, lost jurisdiction of said proceedings and the sales thereunder are entirely void.

(19.) That salaries have been voted county officers by the board of supervisors and included in said taxes without warrant or authority of law, to-wit:—sheriffs' salaries.

(20.) That the estimates and taxes levied and collected in all said counties include salaries not authorized by law for county officers, to-wit:—for sheriff.

(21.) That contracts were let without advertising for bids *e. g.* the contract for county printing.

(22.) That delinquent and rejected taxes payable by specific persons and property have been assessed generally and are included in said taxes and on said lands.

(23.) That the county highway fund has been expended on other than State and county roads.

(24.) That the county highway fund has been divided equally

amongst townships and expended under the directions of the township officers.

(25.) That the record of equalization of the township assessment rolls in the counties was not signed by chairman of board of supervisors and county clerk as required by law.

(26.) That said counties were bonded without authority of law and taxes levied and collected for the purpose of paying such bonds.

(27.) That the highway fund was not expended in the township where raised.

(28.) That five hundred ($500.00) dollars was voted by the county of Alpena to the city of Alpena to aid in erecting and establishing a market and taxes levied for the same, for which there is no authority or warrant of law.

34 (29.) That money was borrowed in a manner and amounts not authorized by law, for example bonds were issued, and money borrowed where the question of issuing such bonds had not been voted for by a majority of the electors in the county or township, as required by law, and in some cases money was borrowed without submitting the matter to the vote of the electors.

(30.) That the equalization of said township assessment rolls was not of property at its true cash value.

(31.) That funds were voted for purposes other than those named.

(32.) That the number of acres in a parcel is not designated on the tax roll.

(33.) That there is no entry on the tax roll opposite some parcels of land to show who owns the same, or that the name of the owners is unknown.

(34.) That the amount of taxes is not entered opposite some descriptions of land although there is entered opposite other descriptions of land on the same roll in the same township what purports to be the proportionate amount of such tax against such other descriptions.

(35.) That more than one tax appears in a single column.

(36.) That the assessed valuation was excessive.

(37.) That the valuation was not fixed according to law for example:—in Presque Isle county—the board of supervisors in 1880, adopted, the following rules for assessing lands—pine lands at $5.00 per acre, farming lands of general average quality at $3.00 per acre, and stripped and improved lands at cash value, which said rules have never been re-cinded by the board.

35 (38.) That in some cases after taxes had been assessed a percentage, for example, forty (40%) per cent. of the same was remitted, and the balance accepted in payment of the total amount but never in the case of your orator's lands.

30. That said void assessments can never be made the foundation for a valid decree, therefor against the said lands of your orator: and said void and illegal assessments are not severab*el*, but such

void and invalid assessments and taxes are entire, and affect the whole tax levied.

31. That all matters and facts alleged herein are matters of public record in the said State of Michigan, and said counties and said townships, to which said records for greater certainty your orator refers, which on account of their great number and length cannot be made part hereof, from which said matters and the facts ready to be produced and proved as this honorable court shall direct, will then more fully and at large appear.

32. That said tax laws with the exception of the laws of 1869 and 1885 provide that the land shall be sold for taxes to the person who will take the smallest undivided fee simple interest therein and pay the taxes for which such land is offered which method of sale, where less than the whole interest is sold imposses upon the landowner a tenure of title not warranted or authorized by law and destroys or impairs his vested interests therein by forcing upon him without his consent a tenancy in common in and to said lands in contravention of the Constitution both of the United States and of the State of Michigan.

33. That the methods of sale provided by said laws are in-
36 consistent and inoperative for the reason that they leave the legislative intent vague and uncertain in this, to-wit:—that the method of sale may, although the purpose is merely the collection from the land offered of the taxes assessed against it, result, on the one hand in the purchaser becoming a joint owner, claiming under the same root of title and interested in maintaining said lands free from encumbrances; or on the other hand in said purchaser becoming the alleged owner of the entire fee-simple title, claiming under a different root of title which is entirely hostile to, and subversive of that of the owner for which said reasons said laws are inoperative, unconstitutional and void as violating the Constitution both of the State of Michigan and of the United States.

34. That upon any lands being bid to the State for taxes the State disposes of the same not to the highest bidder but to the first applicant to the detriment of the owners thereof including your orator; but as a matter of right and justice, other things being equal the owner of the original title thereof should have the preference.

35. That the constitution of the State of Michigan provides that all property, except property paying specific taxes shall be assessed at its cash value, and that the taxes so assessed shall be uniform and equal, and the property so assessed includes both real and personal property; but the equalization of the assessment rolls of the various townships in each county by the board of supervisors thereof in compliance with the terms and provisions of said laws is based solely upon the valuation of the real estate without regard to the personal property thereby producing an inevitable inequality and want of uniformity in the taxes assessed in the various townships especially in the taxes assessed upon real estate, for county

and State purposes thus imposing a grossly unequal burden
37 upon your orator and his said lands and denying to him the equal protection of the law contrary to the Constitution of the United States and the XIVth amendment thereof.

36. That any system of taxation in order to apportion equally the burden thereof should take into consideration the character and kind of property and provide proper rules of classification for purposes of taxation, but said tax laws disregard any such rules of classification and jumble all property both real and personal, together, and with comparatively unimportant exceptions where specific taxes are levied, assess all said property at the same rate thus creating a system that is incapable of producing approximate and reasonable equality, but must from its very nature in its operation result in gross inequality and discrimination and does work such inequality to and discrimination against your orator and *others* his said lands and the lands of others.

37. That said laws do not tax the stock of national banks upon the same methods as other moneyed capital.

38. That personal property and real estate under the system of taxation authorized by law in the State of Michigan cannot be taxed at a uniform rate, although the constitution of said State provides they shall be so taxed; and it is unlawful to tax them otherwise, from which it results, if the provisions of said laws are to be observed, that said laws deny to your orator the equal protection of the law and deprive him of his property without due process of law.

39. That said tax laws provide that in case a tax title acquired thereunder is set aside by the court that the said auditor
38 general shall refund to the purchaser the amount paid at the time of the sale with interest thereon at the rate of eight per cent. per annum from the time of the purchase to the time when said sale was set aside thereby pledging the credit of the State in aid of private persons contrary to the constitution of the State of Michigan and denying to your orator the equal protection of the law and enacting class legislation contrary to the Constitution of the United States and the XIVth amendment thereof.

40. That said tax law of 1893 permits redemption, after one year has elapsed, from the sale, made thereunder, for taxes, upon condition that the owner pay the holder of the tax-title the amount paid therefor with one hundred per cent. and all costs and charges which requirement is a penalty that is unreasonable and deprives your orator of his property without due process of law contrary to the Constitution of the United States.

41. That said tax laws of 1869, 1882, 1885, 1889 1891 and 1893 although they are public acts and general laws applicable to the whole State of Michigan are not uniform in their operation but by their terms, contrary to law and their obvious purpose, except certain cities and villages from their provisions by respectively enacting in express terms that "this act shall be applicable to all cities and villages where not inconsistent with their respective charters"

thereby limiting the provisions and operation of the general tax law to those cities and villages which had not by local law obtained special grants of powers and privileges relating to the assessment and collection of their taxes, whereby different methods of the assessment and taxation as well, as for the sale of lands for
39 taxes the interest thereon etc., obtain in different cities and villages of the State which are different from the methods provided by the general tax law but are to- numerous to mention and specify in detail.

For example, the tax law of 1893, which in addition to the foregoing provided that "in cities where some special provision is made for demand and collection of taxes, the collector or treasurer shall comply with such special provision, otherwise be bound by the provisions of this act," also provides for a judicial sale of lands for taxes; which said judicial sale, however, or any proceedings looking to the same, are not held or observed in the city of Grand Rapids, Michigan, for the reason that the charter of the city of Grand Rapids provides in title VIII, and sections 21, 22, and 23, thereof that:—

"SECTION 21. Owners or parties having legal interest in any real estate assessed under the provisions of this title shall be liable to pay every tax regularly assessed thereon, and if the same shall not be paid by the first day of March following the assessment of the same, it shall be the duty of the city treasurer to cause a notice to be published in the two official newspapers of the city, once a week for four successive weeks, requiring the owners or parties having a legal interest in such real estate to pay such tax together with all interest and charges thereon, and that if default shall be made in paying the same, such real estate will be sold at public auction on the first Monday in April thereafter, at nine o'clock, in the forenoon of that day, at the court house in said city, or as soon thereafter as the description of such real estate shall be reached in the course of the sale, at the highest price which shall be bid for the same,
40 for the payment of such tax and interest and charges thereon, together with all costs and charges of sale. Such sale shall be continued from day to day, Sunday and legal holidays being excluded, from the hour of nine o'clock in the forenoon until the hour of twelve o'clock noon, and from the hour of one o'clock in the afternoon until five o'clock thereafter of each day, until such delinquent taxes are disposed of by such sale.

"SECTION 22. The costs of the advertising, provided for in the proceeding section, shall in no case exceed the sum of forty cents for each description of real estate advertised, and shall be paid out of the general fund of the treasury not otherwise appropriated. Each description of real estate, shall be separately exposed for sale for the total amount of the tax, all interest and charges thereon, together with all the costs and charges of sale and shall be sold to the person who bids the highest price for such real estate: Provided, that no bid shall be accepted for less than the amount of such tax,

all interest and charges thereon, together with all costs and charges of sale.

"SECTION 23. If the owners or persons having a legal interest in any such real estate do not pay such assessment, or tax together with all interest and charges thereon, within the period above prescribed for the publication of such notice, then it shall be the duty of said city treasurer to cause such real estate to be sold at public auction to any bidder, to pay said tax, together with all interest and charges thereon, and the costs and all charges of said sale, and to execute the proper certificate of sale to the purchaser thereof. If there shall be a sum bid for such real estate in excess of the said tax, and of the interest and charges thereon together with all costs and charges of sale, the excess thereof
41 — be deposited with the said city treasurer to be disposed of as hereinafter provided. If such real estate shall not be redeemed within one year after such sale thereof as hereinafter provided, the mayor of said city shall in the name of said city, execute and deliver to such purchaser or his assignee the proper deed of conveyance of such real estate which deed shall be *prima facie* evidence of the regularity of all proceedings under which said sale is made and said deed executed. The said deed shall be as follows: Whereas, on the — day of —— A. D. — at a public sale, made by the treasurer of the city of Grand Rapids for taxes duly assessed by the said city of Grand Rapids, for the following purposes (stating the purpose for which the assessment was made) A—— B—— became the purchaser of the following described real estate namely (described real estate) for the sum of — dollars that being the amount of the tax, interest, costs, and charges thereon. Now, therefore, know all men by these presents, that I C—— D——, mayor of said city in consideration of the premises, do hereby grant, bargain, sell and convey to the said A—— B——, his heirs and assigns, the real estate above described, as so purchased by him, to have and to hold the same to the said A—— B——, his heirs and assigns forever.

Witness my hand and the seal of the city this — day of —— A. D. —.

Signed, sealed and published in the presence of

C—— D——,

Mayor of the City of Grand Rapids."

42 That the sale of lands for taxes in said city of Grand Rapids is held annually in accordance with said charter provisions. That said provisions of the tax law from which said city of Grand Rapids is thus exempted relate to the jurisdiction of the court of chancery in exercising its alleged jurisdiction under said tax law and said alleged jurisdiction is thus curtailed and limited without warrant or authority of law, and by reason of said local privileges and exemptions, and the consequent partial instead of uniform operation of said laws, a different rule or rules govern your orator and

his said lands from others for example, land and landowners of the said city of Grand Rapids, and he is thereby deprived of his property without due process of law and denied the equal protection of the law and said tax laws are therefore void and unconstitutional, as being obnoxious to the Constitution both of the United States and of the State of Michigan.

42. That said laws in so far as they attempt to confer jurisdiction upon the courts of the State for their enforcement and in, at the same time, as they do, limiting and curtailing said pretended jurisdiction by exempting certain villages and cities therefrom are unconstitutional and void being in contravention of the Constitution both of the State of Michigan and of the United States, particularly the XIVth amendment of the latter.

43. That it is impossible to ascertain or approximate what would be a fair or just amount for your orator to pay on account of taxes; but, everything considered, your orator has now overpaid by reason of the said unequal, unjust and discriminating rules of assessment and taxation and illegal exactions thereunder, any sum that
43 in fairness or justness could be demanded of him; but should it hereafter turn out that any sum is payable by him, your orator is willing and ready and hereby offers to pay the same when legally ascertained.

44. That the alleged claims for taxes charged against his said lands are now old and stale demands which are now no longer enforceable.

45. That all of said tax laws are public acts dealing only with the interests of the State, and with property so far as it is affected with the public interest; but said laws in spite of this fact include objects and remedies that are purely private; and attempt to follow and control the alleged lien of the State for taxes attempted to be levied under said laws after it has passed to and become, in so far as said laws can do so, the property of third parties; but said laws provide no remedies or other protection for the owner of the lands affected:

46. That none of said tax laws except those of 1889, 1891, and 1893 purport or attempt to operate retrospectively; and that in so far as said tax laws of 1889, 1891 and 1893 purports or attempt to operate retrospectively said laws are unconstitutional and void, in this, to-wit: that they impose onerous terms conditions, penalties and procedure unprovided for in, unknown to, and not imposed by, the laws which they repeal in relation to the taxes and matters concerning which they attempt to operate retrospectively; and unknown and not contemplated when the present constitution of the State of Michigan was adopted in 1850.

47. That the State of Michigan was admitted into the Union as one of the United States upon certain conditions prescribed by the act of Congress approved June 23rd, A. D. 1836, which said
44 act of Congress and the conditions therein contained were assented to by the State of Michigan by an act approved July 25th, 1836 and afterwards ratified at a convention held at the

city of Ann Arbor in said State of Michigan on the 15th day of December A. D. 1836, one of which said conditions of admission to said Union was and remains "that in no case shall non-resident proprietors be taxed higher than residents;" and such condition is and has, at all times since said year 1836, been part of the fundamental law of the State of Michigan, paramount to both its constitution and laws; and it has at all times been the duty of the said State of Michigan and of the legislature thereof to provide by suitable legislation for the recognition and enforcement of said condition of admission, and said condition of admission was and is a condition precedent to the enactment of any law imposing taxes or prescribing methods of taxation; but the State of Michigan and its legislature have entirely disregarded said condition and have neglected to provide for its recognition and enforcement, and it is a notorious fact that said condition has in the assessment and taxation of persons and property been abrogated, set aside and disobeyed and none of the general tax laws provide for any method by which said condition can be recognized and enforced to the great injury and detriment of your orator and his said lands and said laws are therefore unconstitutional and void.

48. That under the provisions of said laws the auditor general attempts and pretends to acquire or convey, on a sale of said lands for taxes, title in fee simple thereto; and to cut off all right, title and interest of your orator therein; and thereupon after such sale as aforesaid continues to assess said lands to your orator and to charge against him and his said lands subsequent taxes, and the costs, charges and expenses thereof.

45 49. That said laws attempt to deprive your orator of his rights and privileges as a citizen of the State of Michigan and of the United States by denying him access to the courts or limiting his rights and remedies therein *e. g.* by denying him relief except in the cases specified in section 70, of the general tax law of 1893; by denying him in all cases the writ of injunction although he may without such writ suffer irreparable injury; and by requiring payment of a tax as condition precedent to the right of appeal etc., in violation and contravention both of the constitution of the State of Michigan and of that of the United States, and particularly of the XIVth amendment of the latter.

50. That the auditor general of the State of Michigan, said county treasurers of the several counties of Alpena, Cheboygan, Montmorency, Otsego and Presque Isle and all other persons asserting any rights or claiming any title or attempting or threatening to do so under the provisions of said laws are trespassers.

51. That the proceedings taken in the said several townships and counties to assess your orator and his said lands and the attempted and threatened sales of your orator's said lands under the provisions of said laws constitute a cloud upon the title of your orator in and to said lands which ought to be removed, and unless so removed by the decree of this honorable court, will greatly depreciate the value

and prevent the sale thereof to your orator's permanent and irreparable loss, damage and injury; and your orator is without any adequate remedy therefor at law.

52. That by reason of said alleged assessments, taxation
46 and proceedings to sell said lands for said alleged delinquent taxes no vested interest has been acquired therein by the State or any person or persons claiming through the State and none can be so acquired.

53. That all of the provisions of said statutes of which complaint is here made, that they were not observed, were mandatory and for the benefit of your orator and necessary to be observed as he has here claimed in order to confer jurisdiction upon any officer or court purporting or professing to act thereunder, and it was necessary that all such provisions be observed in order, as indicated and claimed, before one taking any steps subsequently in said proceedings, or under said laws or any of them would acquire jurisdiction; and such mandatory proceedings not being so observed all subsequent proceedings were without jurisdiction: but although your orator has been prejudiced by the non-observance of said mandatory proceedings, the courts of the State of Michigan have announced by their decisians that he can have no relief.

54. That said provisions of said laws herein complained of contravene and violate the Constitution of the United States and particularly the XIVth amendment thereof in this to-wit: that they deprive your orator of his property without due process of law and deny to him the equal protection of the laws: and the legislature of the State of Michigan, was without the power or authority to enact said laws.

55. That the unconstitutional and void features and provisions of said laws herein complained of extend to and affect said laws as a whole and render the same entirely unconstitutional, void and unenforceable for the reasons that the unconstitutional and void parts pointed out are so related to, connected with and dependent
47 upon the remaining parts thereof that they cannot be separated therefrom without doing violence to the whole; and the intention of the legislature as expressed in said laws cannot be carried into effect without said void and unconstitutional parts.

56. That many persons claim an interest in said lands described in said Exhibit "A" as grantees of parcels thereof or otherwise by virtue of conveyances made by said auditor general and his predecessors in office and that the names of such persons so far as your orator has been able to discover are: James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinnan, Herman Georgie Charles Laduc, Frank Laduc, Louis St. Amour, William Hackleburg, John McGinn, Davis Pelton, William Reid Charles Bellant, and Francis E. Partridge, John Cain, James Fenlon, David Bowen, Mathias King, Joseph Villburn, Everett F. Merrill, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Compnay, Herman Besser, Monroe Klack, William R. Kendrick,

Lewis Cornwall, John D. Knause and Company, Salling, Hanso and Company, Hanson and Barker, Ramson Hanson, William McPherson, Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John P. Harvey, A. N. Allen, Neevell A. Ayers, Rosena Schmidt, J. W. Karwick, Warren Shook, George Crawford, Hugh McKenzie, John S. Sanborn, D. MacNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Murner, F. A. Baldwin, and F. A. Kramer, and your orator prays that, if hereafter he should discover any other persons claiming any interest in said lands or any part thereof hostile to your orator, he may be permitted to make them parties defendant hereto.

48 57. That all of said persons, claiming any interest in said lands and including said auditor general and his predecessors in office and said county treasurers including their predecessors in office, acquired their individual interest in or performed any act required by said law to be performed with full notice and knowledge of the invalidity and unconstitutionality of said laws and cannot support their pretended claims as innocent or *bona fide* purchasers.

58. That there is not and cannot be a *bona fide* purchaser of a tax-title or any interest based thereon.

59. That said lands described in said Exhibit "A" are of the value of fifty thousand ($50,000.00) dollars and upwards and said auditor general and other defendants claim to own the same and your orator has reason to believe and apprehend and does greatly fear that said defendants relying upon their tax-titles and others acting under their authority will commit waste upon said lands, interfere with the same and your orator's rights therein and that said defendants will sell, convey, mortgage and encumber or otherwise dispose of said lands unless restrained by the order of this court.

60. That the rights and interests of all parties herein in the premises can be determined and protected in this suit which otherwise cannot be done without a number of suits at law and in equity, and your orator has no adequate remedy at law.

61. That all said laws for the reasons herein given and set forth transgress and violate the fundamental principles upon which the governments of the United States and the State of Michigan and their constitutions are based and are therefore unconstitutional and void.

49 Forasmuch therefor- as your orator is without relief except in a court of equity, your orator prays:—

I. That said defendants may be required to make full and direct answer to this your orator's bill of complaint, but not under oath, the answer under oath being hereby waived.

II. That all said tax laws may be declared unconstitutional and void.

III. That all assessments made of said lands, all taxes levied thereon, and all sales of said lands for taxes under and by virtue of

said laws may be set aside, cancelled, held for naught and declared null and void, as a cloud upon the title of your orator.

IV. That all conveyances made in pursuance of said laws and sales may be declared null and void and ordered to be delivered up to be canceled and the defendants ordered to convey any right title or interest they each and any of them claim in and to said lands under said laws or tax-titles thereunder, and in default thereof that the decree herein operate as such conveyance.

V. That your orator's title in and to said lands may be quieted and your orator declared the owner in fee simple thereof and entitled to the possession of the same.

VI. That the defendants may be by the decree of this honorable court required to yield and deliver possession of said lands described in Exhibit "A" to your orator, and that your orator may have the process of the court in due form to obtain possession thereof, and to remove therefrom all persons hereinbefore specified as now claiming said lands and parcels thereof and all other persons claiming by, through or under them or any of them.

50 VII. That the writ of injunction may issue out of and under the seal of the court to the above named defendants and each of them, their attorneys, solicitors, agents and servants, commanding them and each of them absolutely and permanently to desist and refrain from committing any waste upon said lands described in Exhibit "A" from assessing said lands or levying any taxes thereon against your orator under said laws, and from selling or attempting to sell said lands for said taxes or taking any other or further proceedings under said laws in regard thereto, and from selling, conveying, mortgaging, encumbering or otherwise disposing of said lands or any parcel or part thereof or interest therein and that in the meantime until the further order of this court, they may be so restrained.

VIII. That your orator may have such other, further and different relief in the premises as the nature of the case may require and shall be agreeable to equity and good conscience.

IX. May it please this honorable court, the premises being considered to grant unto your orator the writ of subpœna to be issued out of and under the seal of this court and directed to the said Roscoe D. Dix, auditor general of the State of Michigan said Louis Bruder, county treasurer of Presque Isle county, Michigan, James N. Kerr, county treasurer of Alpena county, Michigan, Thomas D. James, county treasurer of Cheboygan county, Michigan, Herman Lunden, county treasurer of Montmorency county, Michigan, Allen S. Martindale, county treasurer of Otsego county, Michigan, and James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinnan, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hackleberg, John McGinn David Pelton, William Reid, Charles Bellant,

51 Francis E. Partridge, John Cain, James Fenlon, David Bowen, Mathias King, Joseph Villburn, Everett F. Merrill,

Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwall, John D. Knause and Company, Salling, Hanson and Company, Hanson and Barker, Ramson Hanson, William McPherson, Jr., Fredrick D. Larke, Charles D. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwick, Warren Shook, George Crawford, Hugh McKenzie, John S. Sanborn, S. MacNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramen, George Murner, F. A. Baldwin, and F. A. Kramer, the defendants named in this bill of complaint, commanding them and each of them to be and appear in this court upon a certain day therein to be named and under a certain penalty therein to be inserted then and there to answer this bill of complaint and stand to, abide by, and perfrom such decree as the court shall make in the premises.

And your orator will ever pray.

MERRITT CHANDLER.

McKAY & McKAY,
Solicitors for Complainant.

Business address, Eddy bldg., Saginaw, Michigan.

STATE OF MICHIGAN, } ss:
County of Presque Isle, }

On this 14th day of September A. D. 1900, before me a notary public in and for said county, personally appeared Merritt Chandler the complainant in the foregoing bill of complaint who first being duly sworn deposes and says, that he has read the foregoing bill of complaint by him subscribed and knows the contents thereof and that the same is true of his own knowledge except as to matters which are therein stated to be on information and belief and as to those matters he believes it to be true.

EDWARD J. JAMES,
Notary Public in and for Presque Isle County, Michigan.

52 EXHIBIT "A."

Southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section five (5), southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section eleven (11) town thirty-three (33) north range one (1) east.

Northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. *S.* ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section one (1), northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of

northeast quarter (N. E. ¼), west half (W. ½) of northeast quarter (N. E. ¼), northeast quarter (N. E. ¼) northwest quarter (— ¼), northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼), southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼), northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼), northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼), southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼), southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼), northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼), northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼), southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section two (2) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼), southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼), south half (S. ½) of northeast quar-
53 ter (N. E. ¼) of section three (3); northwest quarter (N. W. ¼) of the southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of the southwest quarter (S. W. ¼) of section four (4); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼), northeast quarter (N. E. ¼) of southwest quarter (S. E. ¼), northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S.E. ¼) of southwest quarter (S. W. ¼), southwest — (S. W. ¼) of southwest quarter (S. W. ¼) of section five (5); south half (S. ½) of southwest quarter (S. W. ¼), southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section six (6); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼), southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section seven (7); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼), northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section eight (8); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼), northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼), southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼), southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section nine (9); northeast
54 quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼), northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼), northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼), northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) and southwest quarter (S. W. ¼) of

southwest quarter (S. W. ¼) of section ten (10); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. *E.* ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼), southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of north west quarter (N. W. ¼), northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼), southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼), southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼), northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section eleven (11), northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼), northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast — (S. E. ¼), northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twelve (12); northwest quarter (N. W. ¼) of northwest quarter
55 (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section thirteen (13); northeast quarter (N. E. ¼) of section fourteen (14) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section fifteen (15); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) of section seventeen (17) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) of section seventeen (17); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼), northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) of section eighteen (18); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) of section twenty three (23); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼), southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼), southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼), southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-five (25); southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-six (26); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼), southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼), southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty-seven (27); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼), northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter

(S. E. ¼), southwest quarter (S. W. ¼) of southeast quarter
56 (S. E. ¼) of section twenty-eight (28); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section twenty-nine (29) northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼), southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼), northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼), northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼), southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section thirty-three (33); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼), southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼), southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼), northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼), southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼), northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) of section thirty-four (34); northeast quarter, (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest
57 quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty-five (35) northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section thirty-six (36); all in township thirty-four north, range one (1) east.

South west quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section four (4); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section five (5); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼), northeast quarter of northwest quarter (N. W. ¼), northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼), southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southwest

quarter (S. W. ¼) of section six (6); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼), northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) 58 of section seven (7); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼), northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section eight (8); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) lot one (1) section eleven (11); southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of lot four (4) section twelve (12); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section fourteen (14) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section eighteen (18) west half (W. ½) of northwest quarter (N. W. ¼) of section nineteen (19); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section twenty-three (23); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) of section twenty-four (24); northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-five (25); southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty-nine (29); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼), northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) west half (W. ½) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) east half (E. ½) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) north half (N. ½) of southeast quarter (S. E. ¼) of section thirty (30); north half (N. ½) of northeast quarter (N. E. ¼) north half (N. ½) of southeast quarter (S. E. ¼) of section thirty-one 59 (31); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section thirty-three (33); northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼), south half (S. ½) of northeast quarter (N. E. ¼) of section thirty-six (36); all in township thirty-five north, range one (1) east.

Northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section one (1); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) of section four (4); southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section ten (10); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter

(N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section fifteen (15) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) lot seven (7) of section seventeen (17); northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section seventeen (17); northeast
60 quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. quarter) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section eighteen (18); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) east half (E. ½) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. *E.* ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section nineteen (19); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) lot one (1); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) lot 2, northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest
61 quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N.E. ¼) of southwest quarter (S. W. ¼) of section twenty (20); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section twenty-eight (28) northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty nine (29); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty (30), northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of

northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty-one (31); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼)
62 northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section thirty-two (32); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section thirty-three (33); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) lot one (1) of section thirty-four (34) and northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) of section thirty-four (34); all in township thirty-six (36) north, range one (1) east.

Southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section ten (10); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section fourteen (14); southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼); southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section fifteen (15); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) east half (E. ½) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section twenty-two (22); southwest quarter
63 (S. W. ¼) of northeast quarter (N. E. ¼) of section twenty-three (23); southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) and southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty-six (26) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) of section twenty-seven (27); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼)

southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty-four (34); all in township 37 north, range 1 east. Southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) lot one and two (1 & 2) section twenty (20) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) lot four (4) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) lot three (3) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty-six (26); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) lot one (1), northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) of lot two (2), southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼)
64 northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) of section twenty-seven (27); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section twenty-nine (29); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section thirty (30); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section thirty-four (34); all in township thirty-eight (38) north, range one (1) east.

Southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty-four, township thirty-three (33) north, range one (1) west.

Northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section two (2); southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section four (4); north half (N. ½) of northwest quarter (N. W. ¼) of section six (6); west half (W. ½) of section nine (9); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) west half (W. ½) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) west half (W. ½) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest
65 quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section thirty-one (31) township thirty-four (34) north, range one (1) west.

Northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of north-

west quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼); southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section one (1); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section two (2); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section twelve (12); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) west half (W. ½) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼), northwest quarter (N. W. ¼) of southeast quarter
(S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter
66 (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter
(S. E. ¼) east half (E. ½) of southwest quarter (S. W. ¼) west half (W. ½) of southwest quarter (S. W. ¼) of section thirteen (13); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section twenty-one (21); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty-two (22); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-three (23); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. *E.* ¼) of northwest quarter (N. *E.* ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast
quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest
67 quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter
(S. W. ¼) of southeast quarter (S. E. ¼) of section twenty-four (24); west half (W. ½) of northeast quarter (N. E. ¼) northwest quarter

(N. W. ¼) of southeast quarter (S. E. ¼) of section twenty-five (25); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) south half (S. ½) of southeast quarter (S. E. ¼) south half (S. ½) of southwest quarters (S. W. ¼) of section twenty-six (26); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section thirty-six (36) in township thirty-five (35) north, range one (1) west.

Northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section ten (10); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirteen (13) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of
68 southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section fourteen (14); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section fifteen (15); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) of lot one (1), southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) of section nineteen (19); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section twenty-one (21); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section twenty-four (24); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section thirty-five (35); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼)

of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest
69 quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty-six (-6); all in the township of thirty-six (36) range one (1) west.

Lot on river, described as follows:—A piece of land bounded as follows, commencing at a stake at the intersection of the north line of the southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section seven (7) township thirty-seven (37) north, range one (1) west and the road running from Cheboygan to Mullet lake thence easterly along said line to Cheboygan river thence southerlay along said river 37 & 37/100 rods to a cedar stake, thence west 16 rods to said road to a stake thence along said road to the place of beginning. Also a piece of land commencing at the southeast corner of the southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section seven (7), township thirty-seven (37) north, range one (1) west, thence west 4 rods thence south and in a line parallel to and running four (4) rods from Cheboygan river 16 rods thence at right angles 4 rods to the river, thence along the river to the place of beginning in section seven (7) township thirty-seven north, range one (1) west.

70 Northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) in section thirty-five (35); all in township thirty-eight (38) north, range one (1) west.

Northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section twenty-five (25); all in township thirty-three (33) north, range two (2) west.

Southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section two (2); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section twenty-five (25); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section thirty-six (36); all in township thirty-four (34) north, range two (2) west.

Southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section two (2); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section three (3); southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section eight (8); northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) lot three (3) of section eight (8); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section eleven (11); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest

quarter (N. W. ¼), northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter—(S. E. ¼) of section eleven (11); southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section twenty-seven (27); all in township thirty-five (35) range two (2) west.

71 Lot one (1); lot two (2); lot three (3); lot four (4) and northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-four (24); all in township thirty-six (36) north range two (2) west.

A piece of land commencing on the west side of Main street 25 ft. 8 in. southerly from southeast corner of lot 38 in M. W. Hern's addition, thence running west parallel to southerly line of said lot 38, 99 ft. thence southerly and parallel to Main street, 26 ft. thence easterly parallel to southerly line of said lot 99 ft. to Main street. thence northerly along west side of Main street to the place of beginning. being parallel to lot 39 in M. W. Hern's addition to Cheboygan village. A strip of land from off the southerly side of lot six (6) forty ft. wide on Main street. 99 ft. deep and a strip of land from off the northerly side of lot five (5). ten ft. four inches wide on Main street and 99 ft. deep in M. W. Hern's addition to Cheboygan village in the village of Cheboygan, Cheboygan county, Michigan. In section twenty-four (24) township thirty-six (36) north, range two (2) west.

Southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-eight (28); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty-nine (29); all in township thirty-five (35) north, range three (3) west.

Southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) lot three (3); southwest quarter (S. W. ¼) of northeast quarter
72 (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section four (4); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) lot one (1) section nine (9); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) lot three (3) of section fourteen (14); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) lot four (4), southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) lot five (5); of section fourteen (14), southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section eighteen (18); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. E. ¼) of section nineteen (19); all in township thirty-six (36) north, range three (3) west.

Southwest quarter of northwest quarter, northwest quarter, lot 3 of section four, southeast quarter of southeast quarter, lot 1, section twenty-two, northeast quarter of northeast quarter of section twenty-three in town thirty seven north of range three west.

Northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) north-

west quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) of section one (1): northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section ten (10); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section eleven (11); all in township thirty-eight (38) north, range three (3) west.

73 Southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) lot two (2); northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) of section thirty-five (35); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼), lot one (1); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼), lot four (4) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼), lot three (3); northeast quarter (N. E. ¼) of the southwest quarter (S. W. ¼) lot two (2) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section thirty-six (36); all in township thirty-nine (39) north, range three (3) west.

East fractional half (E. fr'l ½) of northeast quarter (N. E. ¼) west fractional half (W. fr'l ½) of northeast quarter (N. E. ¼) west fractional half (W. fr'l ½) of northwest quarter (N. W. ¼) east half (E. ½) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. *E.* ¼) of section one (1); east fractional half of northeast quarter, northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section two (2); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section three (3); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast

74 quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section (8); northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section nine (9); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) of section twelve (12); all in township thirty-three (33) north, range two (2) east.

North fractional half (N. fr'l ½) of northeast quarter (N. E. ¼) of section one (1) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section two (2); northeast quarter (N. E. ¼) of the northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼)

southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section three (3); northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S.E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section four (4); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter
75 (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section five (5); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. E. ¼) of northeast quarter (N. E. ¼) south fractional half (S. fr'l ½) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section six (6); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section eight (8); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N.W. ¼) northwest quarter (N.W. ¼) of southeast quarter (S.E. ¼)
76 southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section nine (9); northeast quarter (N. E ¼) of northeast quarter (N. E. ¼) west half (W. ½) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section ten (10); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼)

southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section eleven (11); southeast quarter (S. *W.* ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twelve (12); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirteen (13); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of
77 northeast quarter (N. E. ¼) southwest quarter (S. *E.* ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) east half (E. ½) of southeast — northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest — (S. W. ¼) of southeast quarter (S. E. ¼) of section fourteen (14); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section fifteen (15); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section sixteen (16) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southwest fractional quarter (S. W. ¼) of section eighteen (18); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) southwest fractional quarter (S. W. fr'l ¼) of section nineteen (19); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) south-
78 east quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) west half (W. ½) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼)

of section twenty (20) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-one (21); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-two (22); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-three (23); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. *E.* ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section twenty-four (24); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of
79 southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of south-

east quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section twenty-five (25); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-six (26); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) south half (S. ½) of northwest quarter, northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) — southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter
81 (S. W. ¼) of section twenty-seven (27); northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. E. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-eight (28); northeast quarter (N. E. ¼) of northeast quarter (N.E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section twenty-nine (29); northeast quarter (N. E. ¼) of northeast quarter northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) north fractional one half (N. fr'l ½) of southwest (S. W.) of section

thirty (30); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) north half (N. ½) of southeast quarter (S. E. ¼) southwest quarter
82 (S. W. ¼) of southeast quarter (S. E. ¼) south half (S. ½) of northeast quarter (N. E. ¼) of section thirty-two (32); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section thirty-three (33); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) of section thirty-four (34); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-five (35); northwest quarter (N. W. ¼) of
83 northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) south half (S. ½) of northwest quarter (N. W. ¼) north half (N. ½) of southwest (S. W.) of section thirty-six (36); all in township thirty-four (34) north, range two (2) east.

East half (E. ½) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) lot four (4) lot three (3), southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section five (5); southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) lot three (3) of section seven (7); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section eight (8); southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section nine (9); southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twelve (12); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of section seventeen (17); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) south-

west quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast — (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section eighteen (18); west half (W. ½) of northeast quarter (N. E. ¼) of section nineteen (19); northeast quarter (N. E. ¼) of north-
84 east quarter (N. E. ¼) northwest quarter (N.W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N.W. ¼) of northeast quarter (N. E. ¼) of section twenty (20); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section twenty-two (22); southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-four (24); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-five (25); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section twenty-six (26); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section thirty-two (32); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-three (33); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) south half (S. ½) of southwest quarter (S. W. ¼) of section thirty-four (34); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼)
85 northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼), southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section thirty-five (35) northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼)

of southwest quarter (S. W. ¼) of section thirty-six (36); all in the township of thirty-five (35) north, range two (2) east.

Northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section two (2); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of
northeast quarter (N. E. ¼) southwest quarter (S. W. ¼)
86 of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of
northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section three (3); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section four (4); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section five (5); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section six (6); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section nine (9); northwest quarter (N. W. ¼) of
northwest quarter (N. W. ¼) of section ten (10); northeast
87 quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest
quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section eleven (11); southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) lot four (4) of section thirteen (13); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼)

northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) of section fourteen (14); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of section fifteen (15); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) — northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section twenty-two (22); west half (W. ½) of northwest quarter (N. W. ¼) of section twenty-three (23); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) and northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) and lot one (1) of section twenty-four (24); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼)
88 southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twenty-nine (29); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) lot three (3) of section thirty (30); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) — northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) lot 1, southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) lot two (2); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) lot four (4) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) lot five (5), of section thirty-two (32); all in the township of thirty-six (36) north, range two (2) east.

Northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) of section six (6); northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-one (–1); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section twenty-two (22); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section twenty-three (23);
89 southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) lot three (3) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) lot two (2) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-four (24); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-eight (28); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼)

of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-nine (29); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section thirty (30); southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-one (-1); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) — northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) — northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼)
southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼)
90 southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼)
northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty-two (32); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section thirty-three (# 33); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section thirty-four (34); northwest
quarter (N. W. ¼) of northeast quarter (N. E. ¼) northeast
91 quarter (N. E. ¼) of southeast quarter (S. E. ¼) lot one (1)
section thirty-five (35); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter

(N. W. ¼) of section thirty-six (36); all in township thirty-seven (37) north, range two (2) east.

Southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-two (32); all in township thirty-eight (38) north, range two (2) east.

East fractional half (E. fr'l ½) of northeast (N. E.) west fractional half (W. fr'l ½) of northeast (N. E.) east fractional half (E. fr'l ½) of northwest (N. W.) west fractional half (W. fr'l ½) of northwest (N. W.) northwest fractional quarter (N. W. fr'l ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) of section six (6); all in township thirty-three (33); north range three (3) east.

Northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section eighteen (18); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter
92 (S. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) — northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-one (31); west half (W. ½) of southwest quarter (S. W. ¼) of section thirty-two (32); all in township thirty-four (34) north, range three (3) east.

Northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-three (33); all in township thirty-five (35) north, range three (3) east.

Southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) lot two (2) section nineteen (19); all in township thirty-six (36) north, range three (3) east.

Southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section eight (8); southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section nine (9); southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼)

of section nine (9); northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section seventeen (17); all in township thirty-
93 three (33) north, range seven (7) east.

Southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section six (6); all in township thirty-one (31) north, range one (1) east.

Southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) of section twenty-four (24); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section twenty-five (25); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section thirty-four (34); northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section thirty-five (35); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section thirty-six (36); all in township thirty (30) north, range three (3) east.

Southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section ten (10); southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section fifteen (15); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section seventeen (17); northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) of section twenty-one (–1); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼)
94 of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section twenty-two (22); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) of section twenty-three (23); all in township thirty-one (31) north, range four (4) east.

Northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section twenty-six (26); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section thirty-four (34); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section thirty-five (35); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section thirty-six (36); all in township thirty-two (32) north range four (4) east.

Northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section one (1); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) of section two (2);
95 northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of section five (5); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section six (6); all in township thirty-one (31) north, range five (5) east.

Southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section thirteen (13); northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section twenty-four (24); northeast quarter of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼)
96 of section thirty (30); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section thirty-one (31); southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest — (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section thirty-two (32); northeast quarter (N. E. ¼) of southwest quarter

(S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section thirty-three (33); northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-five (35); southwest quarter (S. W. ¼) of southwest — (S. W. ¼) of section thirty-six (36); all in township thirty-two (32) north, range five (5) east.

97 Southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section twenty (20); northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section twenty-two (22); northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section twenty-three (23); southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section twenty-five (25); southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section twenty-six (26); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) of section twenty-seven (27); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) of section twenty-nine (29); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest

98 quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section thirty-four (34); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) of section thirty-five (35); all in township thirty-two (32) north, range six (6) east.

Northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) of section one (1); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼)

of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section two (2); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) southeast quarter (S. E. ¼) of northwest quarter (N. W. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) west half (W. ½) of southwest quarter (S. W. ¼) southeast quarter (S. E. ¼) of southwest quarter (S. W. ¼) of section twelve (12); northeast quarter (N. E. ¼) of northwest quarter (N. W. ¼) of section seventeen (17); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section twenty-four (24);
99 all in township thirty-one (31) north, range one (1) west.

Northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) of section seventeen (17); northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southwest quarter (S. W. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) of section twenty-four (24); southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section twenty-six (26); northeast quarter (N. E. ¼) of northeast quarter (N. E. ¼) northwest quarter (N. W. ¼) of northeast quarter (N. E. ¼) southwest quarter (S. W. ¼) of northeast quarter (N. E. ¼) southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) northeast quarter (N. E. ¼) of southeast quarter (S. E. ¼) northwest quarter (N. W. ¼) of southeast quarter (S. E. ¼) southwest quarter (S. W. ¼) of southeast quarter (S. E. ¼) southeast quarter (S. E. ¼) of southeast quarter (S. E. ¼) of section thirty-five (35); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) of section thirty-six (36); all in township thirty-two (32) north, range one (1) west.

Southeast quarter (S. E. ¼) of northeast quarter (N. E. ¼) of section one (1); northwest quarter (N. W. ¼) of northwest quarter (N. W. ¼) southwest quarter (S. W. ¼) of northwest quarter (N. W. ¼) northwest quarter (N. W. ¼) of southwest quarter (S. W. ¼) southwest quarter (S. W. ¼) of southwest quarter (S. W. ¼) of section three (3); all in township thirty-two (32) north, range two (2) west.

100 *Præcipe for Appearance of Auditor General.*

Afterwards, to-wit, and now on this day, that is to say, on October 26th, 1900, comes the defendant, Roscoe D. Dix, auditor general of the State of Michigan, by Horace M. Oren, his solicitor and files in said court his præcipe for appearance and notice, which præcipe and notice is in words and figures following, to-wit:—

UNITED STATES OF AMERICA:

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General of the State of Michigan, *et al.*, Defendants. } No. 37.

In this cause on motion of Horace M. Oren, attorney general, solicitor for Roscoe D. Dix, auditor general of the State of Michigan, one of said defendants, it is ordered that the appearance of the said defendant Roscoe D. Dix be and the same hereby is entered herein.

HORACE M. OREN,
Solicitor for Defendant Roscoe D. Dix.

To Messrs. McKay & McKay, solicitors for complainant:

Please to take notice that the foregoing is a true copy of an order entered in the above entitled cause.

Yours, etc.,
HORACE M. OREN,
Solicitor for Defendant Roscoe D. Dix.

Business address, capital, Lansing.
Dated, October 24th, 1900.

101 *Entry of Appearance of said Defendant.*

Afterwards, to-wit, and now on this day, that is to say, on October 26th, 1900 an entry is made in the chancery order book, kept in the clerk's office, of the appearance of the defendant, Roscoe D. Dix, auditor general, of the State of Michigan, which entry is in words and figures following, to-wit:—

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division.

MERRITT CHANDLER

vs.

ROSCOE D. DIX, Auditor General; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County; James E. Holcombe, Cheboygan Leather Company Pfister and Vogel Leather Company, Hugh McKinnan, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelton, William Reid, Charles Bellant, and Francis E. Partridge, John Cain, James Fenlow, David Bowen, Mathias King, Joseph Villeburn, Everett F. Merrill, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwell, John D. Knause and Company, Salling, Hanson and Company, Hanson and Barker, Ramson Hanson, William McPherson, Jr., Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwisk, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. MacNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Muner, F. A. Baldwin, and F. A. Kramer. } No. 37.

On reading and filing præcipe for appearance and on mo-
102 tion of Horace M. Oren, solicitor for the defendant, Roscoe D. Dix, auditor general of the State of Michigan, it is ordered that the appearance of said defendant be and the same is hereby entered herein.

And on like motion it is further ordered that the complainant or his solicitor deliver a copy of the bill of complaint to the solicitor for the said defendant within twenty (20) days after service of notice of this order, and that in default thereof, that said bill be dismissed with costs as to said defendant.

WALTER S. HARSHA, *Clerk.*

103 *Præcipe for Appearance of Treas. of Presque Isle Co.*

Afterwards, to-wit, and now on this day, that is to say, on October 30th, 1900 comes the defendant, Louis Bruder, treasurer of Presque Isle county, by G. Covey, Jr. his solicitor and files in said court a præcipe for appearance which præcipe for appearance is in words and figures following, to-wit :—

In the Circuit Court *for* the United States for the Eastern District of Michigan, Northern Division.

MERRITT CHANDLER, Complainant,
vs.
AUDITOR GENERAL ET AL., Defendants. } No. 37.

To McKay and McKay, solicitors for complainant:

Take notice, that the defendant, Louis Bruder, treasurer of Presque Isle county, hereby appears in the above entitled cause and waives the service of a copy of the bill of complaint therein.

Yours, etc.,
G. COVEY, JR.,
Solicitor for the said Def't.

Dated, October 18th, 1900.
Business address, Rogers, Mich.

To the clerk of said court:

Please enter my appearance for the above named defendant in the above entitled cause.

Yours, etc.,
G. COVEY, JR.,
Solicitor for Def't, Louis Bruder.

104 *Entry of Appearance.*

Afterwards, to-wit, and now on this day, that is to say, on October 30th, 1900, the appearance of the defendant Louis Bruder, county treasurer of Presque Isle county was duly entered by the clerk in the chancery order book kept in his office, which entry is in words and figures following, to-wit:

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division.

MERRITT CHANDLER
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas J. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County; James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinnan, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelton, William Reid, Charles Bellant, and Francis E. Partridge, John Cain, James Fenlow, David Bowen, Mathias King, Joseph Villeburn, Everett F. Merrill, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwell, John D. Knause and Company, Salling, Hanson and Company, Hanson and Barker, Ramson Hanson, William McPherson, Jr., Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwisk, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. McNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Muner, F. A. Baldwin, and F. A. Kramer. } No. 37.

On reading and filing *præcipe* for appearance, and on motion of G. Covey, Jr., solicitor for Louis Bruder, treasurer of Presque Isle county, it is ordered that the appearance of said defendant be and the same is hereby entered herein.

WALTER S. HARSHA, *Clerk.*

105 *Demurrers of Auditor General.*

Afterwards, to-wit, and now on this day, that is to say, on November 13th, 1900 comes the defendant, Roscoe D. Dix, auditor general, by Horace M. Oren, his solicitor and files in said court his demurrers to complainant's bill of complaint, which demurrers are in words and figures following, to-wit:

UNITED STATES OF AMERICA, }
State of Michigan. }

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Roscoe D. Dix, auditor general of the State of Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant by protestation not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to b- true in such manner and form as the
106 same are therein set forth and alleged, doth demur to the said bill and for causes of demurrer showeth.

1. That the said complainant hath not in and by said bill made or stated such a cause as doth or ought to entitle him to any such relief as is thereby sought and prayed for from or against this defendant.

2. There are blended in said bill of complaint, with a demand for equitable relief matters and claims for which a plain, adequate and complete remedy may be had at law.

3. Said bill is exhibited against this defendant above named and the several other persons therein named as defendants thereto for distinct matters and causes in several whereof as appears by the said bill, this defendant is not in any manner interested or concerned, and that said bill is altogether multifarious.

4. That the statements charges and allegations in said bill of complaint whereby this defendant is sought to be charged as a party defendant thereto are too vague, uncertain and indefinite to demand or require answer thereto.

5. Wherefore this defendant demurs to the said bill and he prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill, and he hereby

prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

ROSCOE D. DIX,
Auditor General.

HORACE M. OREN,
Attorney General, Solicitor for
Roscoe D. Dix, Auditor General.

I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

JOHN H. GOFF,
Of Counsel for Roscoe D. Dix, Auditor General.

107 STATE OF MICHIGAN, } ss:
County of Ingham, }

Roscoe D. Dix, being duly sworn says that he is auditor general of the State of Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

ROSCOE D. DIX.

Subscribed and sworn to before me this 12 day of November A. D. 1900.

[SEAL.] FRED SCHNEIDER,
Notary Public, Ingham County, Michigan.

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allan S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Roscoe D. Dix, auditor general of the State of Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant by protestation not confessing or acknowledg-
108 ing all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth and alleged.

1. As to so much and such parts of the said bill as seeks to have the sales of lands for taxes cancelled which are now in the possession of defendants or some of them, and that all conveyances under the tax laws may be declared null and void, and as seeks to recover possession of said lands, and as seeks the aid of the process of this court to obtain possession of said lands, and to remove and eject all persons specified in said bill as in possession and claiming the same doth demur and for cause of demurrer showeth that the complainant hath a plain, adequate and complete remedy at law.

2. As to so much and such parts of said bill as seeks to cancel assessments on lands mentioned therein, and to prevent assessments and levies of taxes thereon or against complainant, and to prevent the sale of lands for taxes, this defendant doth demur, and for cause of demurrer showeth, that it does not appear in said bill that the matter in dispute exceeds the sum of two thousand ($2,000.00) dollars exclusive of interest and costs.

3. Wherefore and for divers other errors and imperfections appearing in said bill the defendant prays the judgment of this honorable court, whether he shall be compelled to make any answer to such part of the said bill as is demurred to as aforesaid and prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

ROSCOE D. DIX,
Auditor General.

HORACE M. OREN,
Attorney General, Solicitor for Roscoe D. Dix, Auditor General.

109 I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

JOHN H. GOFF,
Of Counsel for Roscoe D. Dix, Auditor General.

STATE OF MICHIGAN, } ss:
County of Ingham, }

Roscoe D. Dix, being duly sworn says that he is auditor general of the State of Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

ROSCOE D. DIX.

Subscribed and sworn to before me this 12th day of November A. D. 1900.

[SEAL.] FRED SCHNEIDER,
Notary Public, Ingham County, Michigan.

110 *Præcipe for Appearance of Allen T. Martindale, Treas. of Otsego.*

Afterwards, to-wit, and now on this day, that is to say, on November 15th, 1900 comes the defendant Allen T. Martindale, county treasurer of Otsego county, Michigan, by Albert M. Hilton, his solicitor and files in said court a præcipe for appearance, which præcipe is in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General, ET AL., Defendant. } No. 37.

To McKay and McKay, solicitors for the said complainant:

Take notice that the defendant Allen T. Martindale, county treasurer for Otsego county, Mich., by Albert M. Hilton, prosecuting attorney for Otsego county, Mich. hereby appears in the above entitled cause, and waives a copy of the bill of complaint therein.

Yours, etc.,
ALBERT M. HILTON,
Pros. Att'y and Solicitor for the said Defendant.

Business address: Gaylord, Michigan.
Dated Gaylord, Mich., November 14th, A. D. 1900.

111 STATE OF MICHIGAN, } *ss*:
County of Otsego, }

Albert M. Hilton being duly sworn, deposes and says, that he resides in the village of Gaylord, in said county, that he is solicitor for Allen T. Martindale county treasurer for the county of Otsego, one of the defendants in the within entitled cause, and that upon the 14th day of November A. D. 1900 at 9 o'clock in the forenoon, this deponent served on McKay and McKay, solicitors for complainant, a notice of the appearance of the defendant, Allen T. Martindale, therein mentioned in the above entitled cause, and of waiver for a copy of the bill of complaint therein, of which said notice the within and foregoing is a true copy, by mailing said notice in the post office at Gaylord, Mich. postage prepaid and directed to McKay and McKay, solicitors for complainant, at Saginaw, Michigan, on the

14th day of November, A. D. 1900, and further this deponent says not.

ALBERT M. HILTON.

Subscribed and sworn to before me, this 14th day of November A. D. 1900.

WILLIS L. TOWNSEND,
Notary Public, Otsego Co., Mich.

112 *Entry of Appearance.*

Afterwards, to-wit, and now on this day, that is to say, on November 15th, 1900 the appearance of Allen T. Martindale, one of the defendants, by his said solicitor was entered by the clerk in the chancery order book kept in his office, which entry is in words and figures following, to-wit:—

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division.

MERRITT CHANDLER
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas J. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County; James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinnan, Hermon Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelton, William Reid, Charles Bellant, and Francis E. Partridge, John Cain, James Fenlow, David Bowen, Mathias King, Joseph Villeburn, Everett F. Merrill, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwell, John D. Knause and Company, Salling, Hanson and Company, Hanson and Barker, Ramson Hanson, William McPherson, Jr., Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwisk, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. McNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Mumer, F. A. Baldwin, and F. A. Kramer. } No. 37.

On reading and filing præcipe for appearance, and on motion of Albert M. Hilton, solicitor for Allen T. Martindale, treasurer of Ot-

sego county, it is ordered that the appearance of said defendant be and the same is hereby entered herein.

WALTER S. HARSHA, *Clerk.*

113 *Demurrers of T. D. James, County Treas., Cheboygan County.*

Afterwards, to-wit, and now on this day, that is to say, on November 15th, 1900, comes the defendant, Thomas D. James, county treasurer, of Cheboygan county, by George E. Frost, prosecuting attorney for Cheboygan county, his solicitor and files in said court his demurrers to complainant's bill of complaint, which demurrers are in words and figures following, to-wit:—

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allan S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Thomas D. James, county treasurer of Cheboygan county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of com-
114 plaint contained to be true in such manner and form as the same are therein set forth and alleged, doth demur to the said bill, and for causes of demurr-, showeth:

1. That the said complainant hath not in and by said bill made or stated such a cause as doth or ought to entitle him to any such relief as is thereby sought and prayed for from or against this defendant.

2. There are blended in said bill of complaint, with a demand for equitable relief matters and claims for which a plain, adequate and complete remedy may be had at law.

3. Said bill is exhibited against this defendant above named, and the several other persons therein named as defendants thereto for

distinct matters and causes in several whereof as appears by the said bill, this defendant is not in any manner interested or concerned, and that said bill is altogether multifarious.

4. That the statements, charges and allegations in said bill of complaint, whereby this defendant is sought to be charged as a party defendant thereto, are too vague, uncertain and indefinite to demand or require answer thereto.

5. Wherefore, this defendant demurs to the said bill and he prays the judgment of this honorable court, whether he shall be compelled to make any further or other answer to the said bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

THOMAS D. JAMES,
County Treasurer Cheboygan County.

GEO. E. FROST,
Prosecuting Attorney, Cheboygan County,
Solicitor for Thomas D. James, County
Treasurer Cheboygan County.

115 I hereby certify that the foregoing demurrer is, in my opinion well founded in point of law.

GEO. E. FROST,
Prosecuting Attorney, Cheboygan County, Michigan.

STATE OF MICHIGAN, }
County of Cheboygan, } *ss:*

Thomas D. James being duly sworn says that he is the county treasurer of the county of Cheboygan, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

THOMAS D. JAMES.

Subscribed and sworn to before me, 14th day of November, A. D. 1900.

V. D. SPRAGUE,
Notary Public in and for said County.

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer Alpena County; Thomas D. James, County Treasurer Cheboygan County; Herman Lunden, County Treasurer Montmorency County; Allen S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer of Presque Isle County, *et al.*, Defendants. } No. 37.

116 The demurrer of Thomas D. James, county treasurer of Cheboygan county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth and alleged.

1. As to so much and such parts of said bill as seeks to have the sales of lands for taxes canceled, which are now in the possession of the defendants or some of them, and that all conveyances under the tax laws may be declared null and void, and as seeks to recover possession of the said lands, and as seeks the aid of the process of this court to obtain possession of said lands, and to remove and eject all persons specified in said bill, as in possession and claiming the same, doth demur and for cause of demurrer showeth: That the complainant hath a plain, adequate, and complete remedy at law.

2. As to so much and such parts of said bill as seeks to cancel assessments on lands mentioned therein, and to prevent assessments and levies of taxes thereon, or against complainant, and to prevent the sale of lands for taxes, this defendant doth demur, and for cause of demurrer, showeth, that it does not appear in said bill that the matter in dispute exceeds the sum of two thousand ($2,000.00) dollars, exclusive of interest and costs.

3. Wherefore, and for divers other errors and imperfections appearing in said bill the defendant prays the judgment of this honorable court, whether he shall be compelled to make any answer to such parts of said bill as is demurred to as aforesaid, and prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

117 THOMAS D. JAMES,
County Treasurer Cheboygan County.

GEO. E. FROST,
Prosecuting Attorney, Solicitor for Thomas D. James, County Treasurer Cheboygan County, Michigan.

I hereby certify that the foregoing demurrer is, in my opinion well founded in point of law,

GEO. E. FROST,
Prosecuting Attorney, Cheboygan County.

STATE OF MICHIGAN, *County of Cheboygan,* } ss:

Thomas D. James being duly sworn deposes and says that he is the county treasurer of the county of Cheboygan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

THOMAS D. JAMES.

Subscribed and sworn to before me this 14th day of November, A. D. 1900.

V. D. SPRAGUE,
Notary Public in and for said County.

118 *Demurrers of Allen T. Martindale, Treasurer Otsego County.*

Afterwards, to-wit, and now on this day, that is to say, on November 15th, 1900, comes the defendant, Allen T. Martindale, county treasurer of Otsego county, by Albert M. Hilton, his solicitor and files in said court, his demurrers to complainant's bill of complaint, which demurrers are in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Hermon Lunden, County Treasurer of Montmorency County; Allen T. Martendale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Allen T. Martindale, county treasurer of Otsego county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint

contained to be true in such manner and form as the same are therein set forth, and alleged, doth demur to the said bill, and for causes of demurrer, showeth:

119 That the said complainant hath not in and by said bill made or stated such a cause as doth or ought to entitle him to any such relief as is thereby sought and prayed for from or against this defendant.

2. There are blended in said bill of complaint, with a demand for equitable relief, matters and claims for which a plain, adequate and complete remedy may be had at law.

3. Said bill is exhibited against this defendant above named, and the several other persons therein named as defendants thereto for distinct matters and causes in several whereof as appears by the said bill, this defendant is not in any manner interested or concerned, and that said bill is altogether multifarious.

4. That the statements, charges and allegations in said bill of complaint whereby this defendant is sought to be charged as a party defendant thereto, are too vague, uncertain and indefinite to demand or require answer thereto.

Wherefore, this defendant demurs to the said bill, and he prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

ALLEN T. MARTINDALE,
County Treasurer Otsego County.

ALBERT M. HILTON,
Prosecuting Attorney, Solicitor for Allen T. Martindale, County Treasurer Otsego County, Michigan.

I hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

ALBERT M. HILTON,
Prosecuting Attorney, Otsego County.

120 STATE OF MICHIGAN, } ss:
County of Otsego, }

Allen T. Martindale, being duly sworn says that he is the county treasurer of the county of Otsego, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

ALLEN T. MARTINDALE.

Subscribed and sworn to before me, this 14th day of November, A. D. 1900.

WILLIS L. TOWNSEND,
Notary Public in and for said County.

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer Alpena County; Thomas D. James, County Treasurer Cheboygan County; Herman Lunden, County Treasurer Montmorency County; Allen T. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Allen T. Martindale, county treasurer of Otsego county, Michigan, one of the above named defendants, to the bill of complaint of the above-named complainant.

121 This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth, and alleged,

1. As to so much and such parts of the said bill as seeks to have the sales of lands for taxes canceled which are now in the possession of defendants or some of them, and that all conveyances under the tax laws may be declared null and void, and as seeks to recover possession of said lands, and as seeks the aid of the process of this court to obtain possession of said lands, and to remove and eject all persons specified in said bill as in possession and claiming the same, doth demur and for cause of demurrer, showeth, that the complainant hath a plain, adequate, and complete remedy at law.

2. As to so much and such parts of said bill as seeks to cancel assessments on lands mentioned therein, and to prevent assessments and levies of taxes thereon or against complainant, and to prevent the sale of lands for taxes, this defendant doth demur, and for cause of demurrer, showeth, that it does not appear in said bill that the matter in dispute exceeds the sum of two thousand ($2,000.00) dollars exclusive of interest and costs.

3. Wherefore, and for divers other errors and imperfections appearing in said bill, the defendant prays the judgment of this honorable court, whether he shall be compelled to make any answer to such part of the said bill as is demurred to as aforesaid, and prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

ALLEN T. MARTINDALE,
County Treasurer Otsego County.

122 ALBERT M. HILTON,
Prosecuting Attorney, Solicitor for Allen T. Martindale, County Treasurer Otsego County, Michigan.

I hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

ALBERT M. HILTON,
Prosecuting Attorney, Otsego County.

STATE OF MICHIGAN, } ss:
County of Otsego, }

Allen T. Martindale, being duly sworn deposes and says that he is county treasurer of Otsego county, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

ALLEN T. MARTINDALE.

Subscribed and sworn to before me, this 14th, day of November, A. D. 1900.

WILLIS L. TOWNSEND,
Notary Public in and for said County.

123 *Præcipe for Appearance of Herman Lunden, Treas. Montmorency Co.*

Afterwards, to-wit, and now on this day, that is to say on November 17th, 1900, comes the defendant, Herman Lunder, county treasurer of Montmorency county, by Lewis W. Ostrander prosecuting attorney for Montmorency county, his solicitor, and files in said court a præcipe for appearance, which præcipe is in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, Co. Treasurer of Alpena County; Thos. D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allan S. Martindale, County Treasurer of Otsego County; Louis Bruder, County Treasurer of Presque Isle County, *et al.*, Defendants. } No. 37.

SIRS: Please take notice that I am retained as att'y for defendant Herman Lunden, county treasurer of Montmorency county, in the above entitled cause and on like notice the appearance of the de-

fendant Herman Lunden, county treasurer of Montmorency county, is hereby entered.

LEWIS W. OSTRANDER,
Prosecuting Att'y for Montmorency County, Michigan.

Business address, Atlanta, Mich.

To McKay & McKay, Saginaw, Mich.
Dated Nov. 15, 1900.

124 *Entry of Appearance.*

Afterwards, to-wit, and now on this day, that is to say, on November 17th, 1900 the appearance of Herman Lunder, county treasurer of Montmorency county, and one of the defendants in this cause, was duly entered by the clerk in the chancery order book kept in his office, which entry is in words and figures following, to-wit:—

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division.

MERRITT CHANDLER
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas J. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County; Louis Bruder, County Treasurer of Presque Isle County; James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinnan, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelton, William Reid, Charles Fenlow, David Bowen, Mathias King, Joseph Villeburn, Everett F. Merrill, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwell, John D. Knause and Company, Salling, Hanson and Company, Hanson and Barker, Ramson Hanson, William McPherson, Jr., Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwisk, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. McNeil, George J. Carr, Charles J. Wallich, C. H. Engke, S. W. Kramer, George Muner, F. A. Baldwin, and F. A. Kramer. } No. 37.

On reading and filing præcipe in this cause and on motion of Lewis W. Ostrander, solicitor for Herman Lunder, county treasurer

of Montmorency county, one of the defendants in this cause, it is ordered that the appearance of said defendant be and the same is hereby entered herein.

WALTER S. HARSHA, *Clerk.*

125 *Demurrers of Louis Bruder, Treas. of Presque Isle County.*

Afterwards, to-wit, and now on this day, that is to say on November 19th, 1900, comes the defendant, Louis Bruder, county treasurer of Presque Isle county, by Griffin Covey, Jr., his solicitor and files in said court his demurrers to complainant's bill of complaint, which demurrers are in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer Alpena County; Thomas D. James, County Treasurer Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Louis Bruder, county treasurer Presque Isle county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth and alleged, doth demur to the said bill and for causes of demurrer showeth:

126 1. That the said complainant hath not in and by said bill made or stated such a cause as doth or ought to entitle him to any such relief as is thereby sought and prayed for from or against this defendant.

2. There are blended in said bill of complaint, with a demand for equitable relief, matters and claims for which a plain, adequate and complete remedy may be had at law.

3. Said bill is exhibited against this defendant above named, and the several other persons therein named as defendants thereto for distinct matters and causes in several whereof as appears by the said bill, this defendant is not in any manner interested or concerned, and that said bill is altogether multifarious.

4. That the statements, charges and allegations in said bill of complaint whereby this defendant is sought to be charged as a party defendant thereto, are too vague, uncertain and indefinite to demand or require answer thereto.

5. Wherefore, this defendant demurs to the said bill and he prays the judgment of this honorable court, whether he shall be compelled to make any further or other answer to the said bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

LOUIS BRUDER,
County Treasurer Presque Isle County.

GRIFFIN COVEY, JR.,
Prosecuting Attorney, Solicitor for Louis Bruder, County Treasurer Presque Isle County, Michigan.

I hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

GRIFFEN COVEY, JR.,
Prosecuting Attorney Presque Isle County.

127 STATE OF MICHIGAN, }
Presque Isle County, } ss:

Louis Bruder, being duly sworn says that he is county treasurer of Presque Isle county, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

LOUIS BRUDER.

Subscribed and sworn to before me, this 15th day of November, A. D. 1900.

A. A. BRUDER,
Notary Public in and for said County.

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer Cheboygan County; Herman Lunden, County Treasurer Montmorency County; Allan S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Louis Bruder, county treasurer of Presque Isle county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant, by protestation, not confessing or acknowl-
128 edging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth, and alleged,

1. As to so much and such parts of the said bill as seeks to have the sales of lands for taxes cancelled which are now in the possession of defendants or some of them, and that all conveyances under the tax laws may be declared null and void, and as seeks to recover possession of said lands, and as seeks the aid of the process of this court to obtain possession of said lands, and to remove and eject all persons specified in said bill as in possession and claiming the same, doth demur, and for cause of demurrer, showeth, that the complainant hath a plain, adequate and complete remedy at law.

2. As to so much and such parts of said bill as seeks to cancel assessments on lands mentioned therein, and to prevent assessments and levies of taxes thereon or against complainant, and to prevent the sale of lands for taxes, this defendant doth demur, and for cause of demurrer showeth, that it does not appear in said bill that the matter in dispute exceeds the sum of two thousand ($2,000.00) dollars, exclusive of interest and costs.

3. Wherefore, and for divers other errors and imperfections appearing in said bill the defendant prays the judgment of this honorable court, whether he shall be compelled to make any answer to such part of the said bill as is demurred to as aforesaid, and prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

LOUIS BRUDER,
County Treasurer Presque Isle County.

GRIFFIN COVERY, JR.,
Prosecuting Attorney, Solicitor for Louis Bruder, County Treasurer Presque Isle County, Michigan.

129 I hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

GRIFFIN COVEY, JR.,
Prosecuting Attorney, Presque Isle County.

STATE OF MICHIGAN, }
County of Presque Isle, } ss:

Louis Bruder, being duly sworn says that he is the county treasurer of the county of Presque Isle, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

LOUIS BRUDER.

Subscribed and sworn to before me, this 15th day of November, A. D. 1900.

A. A. BRUDER,
Notary Public in and for said County.

130 *Demurrers of James H. Kerr, Treas. of Alpena County, Mich.*

Afterwards, to-wit, and now on this day, that is to say, on November 19th, 1900, comes the defendant, James H. Kerr, county treasurer of Alpena county, by James Collins, prosecuting attorney of said county and solicitor for said defendant, and files in said court his demurrers to complainant's bill of complaint, which demurrers are in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allan S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of James H. Kerr, county treasurer of Alpena county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint con-

tained to be true in such manner and form as the same are therein set forth, and alleged, doth demur to the said bill, and for causes of demurrer, showeth:

131 1. That the said complainant hath not in and by said bill made or stated such a cause as doth, or ought to entitle him to any such relief as is thereby sought and prayed for from or against this defendant.

2. There are blended in said bill of complaint, with a demand for equitable relief, matters and claims for which a plain, adequate and complete remedy may be had at law.

3. Said bill is exhibited against this defendant above named, and the several other persons therein named as defendants thereto, for distinct matters and causes, in several whereof, as appears by the said bill, this defendant is not in any manner interested or concerned, and that said bill is altogether multifarious.

4. That the statements, charges and allegations in said bill of complaint, whereby this defendant is sought to be charged as a party defendant thereto, are too vague, uncertain, and indefinite to demand, or require answer thereto.

5. Wherefore, this defendant demurs to the said bill, and he prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

JAMES H. KERR,
County Treasurer Alpena County.

JAMES COLLINS,
Prosecuting Attorney, Alpena County,
Solicitor for James H. Kerr, County
Treasurer Alpena County, Michigan.

I hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

JAMES COLLINS,
Prosecuting Attorney, Alpena County, Michigan.

132 STATE OF MICHIGAN, } ss:
County of Alpena, }

James H. Kerr, being duly sworn says that he is the county treasurer of the county of Alpena, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

JAMES H. KERR.

Subscribed and sworn to before me, this 14th day of November A. D. 1900.

CHAS. W. McLEAN,
Notary Public in and for said County.

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer Alpena County; Thomas D. James, County Treasurer Cheboygan County; Herman Lunden, County Treasurer Montmorency County; Allan S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of James H. Kerr, county treasurer of Alpena county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant, by protestation, not confessing or acknowl-
133 edging all or any of the matters or things in the said bill of complaint contained to be true, in such manner and form as the same are therein set forth, and alleged,

1. As to so much and such parts of the said bill as seeks to have the sales of lands for taxes canceled which are now in the possession of defendants or some of them, and that all conveyances under the tax laws may be declared null and void, and as seeks to recover possession of said lands, and as seeks the aid of the process of this court to obtain possession of said lands, and to remove and eject all persons specified in said bill as in possession, and claiming the same, doth demur, and for cause of demurrer showeth, that the complainant hath a plain, adequate, and complete remedy at law.

2. As to so much and such parts of said bill as seeks to cancel assessments on lands mentioned therein, and to prevent assessments and levies of taxes thereon or against complainant, and to prevent the sale of lands for taxes, this defendant doth demur, and for cause of demurrer showeth, that it does not appear in said bill that the matter in dispute exceeds the sum of two thousand ($2,000.00) dollars, exclusive of interest and costs.

3. Wherefore, and for divers other errors and imperfections appearing in said bill, the defendant prays the judgment of this honorable court, whether he shall be compelled to make any answer to such part of the said bill as is demurred to as aforesaid, and prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

JAMES H. KERR,
County Treasurer Alpena County.

JAMES COLLINS,
Prosecuting Attorney, Alpena County, Michigan. Solicitor for James H. Kerr, County Treasurer Alpena County, Michigan.

134 I hereby certify that the foregoing demurrer is, in my opinion well founded in point of law.

JAMES COLLINS,
Prosecuting Attorney, Alpena County, Michigan.

STATE OF MICHIGAN, } ss:
County of Alpena, }

James H. Kerr, being duly sworn says that he is the county treasurer of Alpena county, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

JAMES H. KERR.

Subscribed and sworn to before me this 14th day of November A. D. 1900.

CHAS. W. McLEAN,
Notary Public in and for said County.

135 *Notice to Set Demurrers Down for Argument.*

Afterwards, to-wit, and now on this day, that is to say, on November 24th, 1900, comes the complainant in this cause by *their* said solicitors and files in said court a notice to set the demurrers down for argument, which notice is in words and figures following, to-wit:

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
AUDITOR GENERAL ET AL., Defendants. } No. 37.

To Walter S. Harsha, Esq., clerk United States circuit court:

Please set down the demurrers filed herein by the defendants, The Auditor Genenal, and The County Treasurers of Alpena, Cheboygan, Montmorency, Otsego and Presque Isle for argument on the next rule day, December 3d, 1900 at 2 o'clock in the afternoon, or as soon thereafter as counsel can be heard.

Dated, Saginaw, Michigan, November 24, 1900.

McKAY & McKAY,
Solicitors for the Complainant.

136 *Demurrers of Herman Lunden, Treasurer Montmorency County.*

Afterwards, to-wit, and now on this day, that is to say, on November 30th, 1900 comes the defendant, Herman Lunden, county treasurer of Montmorency county, by Lewis W. Ostrander, prosecuting attorney of said county and his solicitor and files in said court his demurrers to complainant's bill of complaint, which demurrers are in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allan S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

The demurrer of Herman Lunden, county treasurer of Montmorency county, Michigan, one of the above named defendants, to the bill of complaint of the above named complainant.

This defendant by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are
137 therein set forth, and alleged, doth demur to the said bill, and for causes of demurrer, showeth:

1. That the said complainant hath not in and by said bill made or stated such a cause as doth or ought to entitle him to any such relief as is thereby sought and prayed for from or against this defendant.

2. There are blended in said bill of complaint, with a demand for equitable relief, matters and claims for which a plain, adequate and complete remedy may be had at law.

3. Said bill is exhibited against this defendant above named, and the several other persons therein named as defendants thereto, for distinct matters and causes in several whereof as appears by the said bill, this defendant is not in any manner interested or concerned, and that said bill is altogether multifarious.

4. That the statements, charges and allegations in said bill of complaint whereby this defendant is sought to be charged as a party defendant thereto are too vague, uncertain and indefinite to demand or require answer thereto.

5. Wherefore, this defendant demurs to the said bill, and he prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

H. LUNDEN,
County Treasurer Montmorency County.

LEWIS W. OSTRANDER,
Prosecuting Attorney, Solicitor for Herman Lunden, County Treasurer Montmorency County, Michigan.

I hereby certify that the foregoing demurrer, is, in my
138 opinion, well founded in point of law.

L. W. OSTRANDER,
Prosecuting Attorney, Montmorency County.

STATE OF MICHIGAN, } ss:
County of Montmorency, }

Herman Lunden being duly sworn deposes and says that he is county treasurer of the county of Montmorency, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

H. LUNDEN.

Subscribed and sworn to before me this 19th, day of November A. D. 1900.

WILLARD F. WARREN,
Notary Public in and for said County.

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer Alpena County; Thomas D. James, County Treasurer Cheboygan County; Herman Lunden, County Treasurer Montmorency County; Ailan S. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, *et al.*, Defendants. } No. 37.

139 The demurrer of Herman Lunden, county treasurer of Montmorency county, Michigan, one of the above-named defendants, to the bill of complaint of the above-named complainant.

This defendant, by protestation not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth and alleged.

1. As to so much and such parts of the said bill as seeks to have the sales of lands for taxes canceled which are now in the possession of defendants or some of them, and that all conveyances under the tax laws may be declared null and void, and as seeks to recover possession of said lands, and as seeks the aid of the process of this court to obtain possession of said lands, and to remove and eject all persons specified in said bill as in possession and claiming the same, doth demur, and for cause of demurrer showeth, that the complainant hath a plain, adequate and complete remedy at law.

2. As to so much and such parts of said bill as seeks to cancel assessments on lands mentioned therein, and to prevent assessments and levies of taxes thereon or against complainant, and to prevent the sale of lands for taxes, this defendant doth demur, and for cause of demurrer showeth, that it does not appear in said bill that the matter in dispute exceeds the sum of two thousand ($2,000.00) dollars, exclusive of interest and costs.

3. Wherefore, and for divers other errors and imperfections appearing in said bill, the defendant prays the judgment of this honorable court, whether he shall be compelled to make any
140 answer to such part of the said bill as is demurred to as aforesaid, and prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

H. LUNDEN,
County Treasurer Montmorency County.

LEWIS W. OSTRANDER,
Prosecuting Attorney, Solicitor for Herman Lunden, County Treasurer Montmorency County.

I hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

LEWIS W. OSTRANDER,
Prosecuting Attorney, Montmorency County.

STATE OF MICHIGAN, } ss:
County of Montmorency, }

Herman Lunden, being duly sworn says that he is county treasurer of the county of Montmorency, Michigan, and one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

H. LUNDEN.

Subscribed and sworn to before me, this 19th day of November A. D. 1900.

WILLARD T. WARREN,
Notary Public in and for said County.

141 *Order Sustaining Demurrers.*

Afterwards, to-wit, and now on this day, that is to say, on January 6th, 1902, an order sustaining the demurrers was granted by the court, a memorandum of which was duly entered by the clerk in the journal of the proceedings of said court, which memorandum is in words and figures following, to-wit:

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment at the district court room in the city of Bay City, on Monday the sixth day of January in the year one thousand nine hundred and two.

Present: The Honorable Henry H. Swan, district judge.

MERRITT CHANDLER
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas J. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County; Louis Bruder, County Treasurer of Presque Isle County; James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinna, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelton, William Reid, Charles Fenlow, David Bowen, Mathias King, Joseph Villeburn, Everett F. Merriall, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwell, John D. Knause and Company, Salling, Hanson and Company, Hanson and Barker, Ramson Hanson, William McPherson, Jr., Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwisk, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. McNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Muner, F. A. Baldwin, and F. A. Kramer. } No. 37.

In Equity.

142 The demurrers of the defendants, The Auditor General of the State of Michigan and The County Treasurers of the Counties of Alpena, Cheboygan, Montmorency, Otsego and Presque Isle, to the bill of complaint filed herein came on this day for argument, and after hearing the arguments of McKay & McKay, complainant's solicitors, and of John H. Goff of counsel for defendants above named, it is ordered that said demurrers be and are hereby allowed, and on motion of said complainant's solicitors, it is ordered that the said complainant have leave to amend his bill within thirty days from the date hereof as he may be advised upon payment of costs which are hereby taxed at the sum of twenty dollars.

143 *Amended Bill of Complaint.*

Afterwards, to-wit, and now on this day, that is to say, on February 5th, 1902, comes the said complainant by his said solicitors and files in said court his amended bill of complaint, which amended bill of complaint is in words and figures following, to-wit:—

To the judges of the circuit court of the United States for the eastern district of Michigan, northern division, in equity:

Merritt Chandler of Onaway, Michigan, and a citizen of the United States and of the State of Michigan and of the eastern district thereof, brings this his bill of complaint in the northern division of the eastern district of Michigan against Roscoe D. Dix, auditor general of the State of Michigan, James H. Kerr, county treasurer of Alpena county, Thomas D. James, county treasurer of Cheboygan county, Herman Lunden, county treasurer of Montmorency county, Allan S. Martindale, county treasurer of Otsego county, and Louis Bruder, county treasurer of Presque Isle, all in the State of Michigan and the eastern district thereof and their successors in office.

And thereupon your orator complains and says;—

1. That he is the owner in fee simple of the original or Government title to the lands mentioned and described in the schedule hereto attached and marked Exhibit "A" and hereby made a part hereof, which said lands so described and included in said schedule are situate in the counties of Cheboygan, Otsego, Presque
144 Isle, Montmorency and Alpena, in the said State of Michigan and district aforesaid; and that your orator derived title thereto directly from the Government as evidenced by patents now in his possession or through mesne conveyances from the patentee thereof.

2. The matters and amount in dispute herein are the taxes assessed on said lands and exceed in each of said counties the sum and value of two thousand ($2,000.00) dollars, exclusive of all interest, costs and charges; that is to say, in the county of Cheboygan eleven thousand ($11,000.00) dollars and upwards, in the county of Presque Isle seven thousand ($7,000.00) dollars and upwards; in the county of Alpena twenty five hundred ($2,500.00) dollars and upwards; in the county of Otsego twenty three hundred ($2300.00) dollars and upwards; and in the county of Montmorency twenty one hundred ($2100.00) dollars and upwards.

3. That claiming to act under and in accordance with the provisions of certain laws of the State of Michigan, said Roscoe D. Dix, auditor general of the State of Michigan as aforesaid and his predecessors in office, and James H. Kerr, county treasurer of Alpena county, Thomas D. James, county treasurer of Cheboygan county, Herman Lunden, county treasurer of Montmorency county, Allen S. Martindale, county treasurer of Otsego county and Louis Bruder county treasurer of Presque Isle county and their predecessors in office have attempted to and are attempting to enforce collection of certain alleged taxes against your orator and the said lands of your orator by the sale of the said lands, which said laws with the title thereof and the date when the same went into force are as follows:—

"An act for the uniform assessment of property and for the
145 collection and return of taxes thereon" being act No. 169 of the Public Acts of the State of Michigan of 1869 as amended

being compiler's sections 1001 to 1216 inclusive of volume 1, of Howell's Annotated Statutes of the State of Michigan, which went into effect April 6th, 1869 and is commonly known as the tax law of 1869.

"An act to provide for the assessment of property and the levy and collection of taxes thereon" being act No. 9 as enacted by the legislature of the State of Michigan at its special session in 1882 as amended, being the appendix to volume 1 of Howell's Annotated Statutes of the State of Michigan, which went into effect March 14, 1882, and is commonly known as the tax law of 1882.

"An act to provide for the assessment of property and the levy and collection of taxes thereon" being act No. 153 of the Public Acts of the State of Michigan of 1885 which went into effect June 9, 1885, being compiler's section- 1169*l* to 1169 x 3 inclusive of volume III. of Howell's Annotated Statutes of the State of Michigan and is commonly known as the tax law of 1885.

"An act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore or hereafter levied" being act No. 195 of the Public Acts of the State of Michigan of 1889 as amended, being compiler's sections 1170*d* to 1173*d* inclusive of volume III, of Howell's Annotated Statutes of the State of Michigan, which went into effect June 27, 1889,
146 and is commonly known as the tax law of 1889.

"An act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore and hereafter levied and to repeal act No. 195 of the Session Laws of 1889 except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act" being act No. 200 of the Public Acts of the State of Michigan of 1891, as amended, which went into effect October 6, 1891 and is commonly known as the tax law of 1891.

"An act to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes heretofore and hereinafter levied; making such taxes a lien on the land taxed, establishing and continuing such lien, providing for the sale and conveyance of lands delinquent for taxes, and for the inspection and disposition of lands bid off to the State and not redeemed or purchased, and to repeal act No. 200 of the Public Acts of 1891 and all other acts and parts of acts in anywise contravening any of the provisions of this act" being act No. 206 of the Public Acts of the State of Michigan of 1893 as amended, being compiler's sections 3824 to 3962 inclusive of the Compiled Laws of 1897 of the State of Michigan and commonly known as the tax law of 1893.

That all said laws of the State of Michigan with the exception
147 of the tax law of 1893, as amended, that is to say the said tax laws of 1869, 1882, 1885, and 1891, as amended, have been repealed and the assessment sale and disposition of your orator's lands and of all taxes and alleged tax claims and tax titles against your

orator and his said lands are now governed by the provisions of said tax laws of 1893 as amended.

4. It is made the duty of the auditor general under said laws to enforce collection of said taxes by the sale of said lands, and it is by proceedings in the name and under the authority of the auditor general that said taxes are being enforced against and collected from your orator and his said lands: and said auditor general is the revenue agent who represents all parties or municipalities interested in the collection of said taxes.

5. That said county treasurers are under said laws charged with certain ministerial duties in said proceedings of the auditor general for the collection of said taxes.

6. That said laws are unconstitutional and void and confer no authority on said auditor general, and said county treasurers or his or their predecessors, agents and purchasers from him or through them for the reasons hereinafter more specifically set forth.

7. That, even if said laws are constitutional, which your orator denies, still the proceedings taken thereunder, by reason of which it is claimed by said defendants he has been deprived of all his right, title and interest in said lands are unconstitutional and void and deprive your orator of his property without due process of law and deny to him the equal protection of the law for the reasons hereinafter more specifically set forth.

148 8. That most of the proceedings taken by the auditor general of the State of Michigan and by the several county treasurers mentioned regarding said lands were taken under the general tax laws of 1882 and the other general tax laws subsequently adopted although some proceedings were taken under the general tax law of 1869 and that claiming to act under and in accordance with the provisions of said tax laws certain charges, purporting to be assessments aggregating twenty-five thousand ($25,000.00) dollars and upwards have been made and now constitute a charge and claims under said laws against your orator and his said lands, for various years from and including the year 1878 to the present time and if valid are a lien on his said lands; which said charges are, for the reasons hereinafter set forth, invalid, illegal and based upon unconstitutional laws and void and unconstitutional proceedings; which said charges, however, said Roscoe D. Dix, auditor general of the State of Michigan, James H. Kerr, county treasurer of Alpena county, Thomas D. James, county treasurer of Cheboygan county, Herman Lunden county treasurer of Montmorency county, Louis Bruder, county treasurer of Presque Isle county, Michigan, and Allen S. Martindale, county treasurer of Otsego county, Michigan, the same being the counties in which said lands are situate now hold for collection and have attempted and are attempting and will and are about to collect and enforce collection of the same by the past or future sale of your orator's said lands.

9. That the auditor general now claims that the said sales of said

lands for said taxes have vested the fee simple title to said
149 lands in the State of Michigan and that your orator has been divested of his title thereto.

10. That your orator is and always has been since and previous to the year 1880 a large property owner in the State of Michigan and in the eastern district thereof, as herein indicated and has contributed a large amount in taxes to the said State and the said municipalities, that is, the said counties and the townships thereof, wherein he held property to wit: $25,000.00 to $35,000.00 and upwards, and has at all times been ready and willing to pay his just and equal share of the public taxes; but said laws furnish no rule capable of producing reasonable equality in the assessment of taxes, but on the contrary discriminate against your orator and his said lands and make it equally impossible to apportion the public burden with approximate equality and result in gross inequality in the assessment of taxes and in arbitrary exactions from your orator and his said lands contrary to the constitution of the State of Michigan and that of the United States, particularly to the XIVth amendment of the Constitution of the United States in this; that they deny to him the equal protection of the law and deprive him of his property without due process of law.

11. That the constitution of the State of Michigan provides in article XIV, section 12, that all property shall be assessed at its cash value; but that in all said laws the legislature departed from and violated the said constitutional provision by enacting that the words "cash value" wherever used in said acts should be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale and not at forced or auction sale, whereby a rule different from that laid down
150 and prescribed by the said constitution was prescribed by the said legislature in said laws and the said rule as enacted by the legislature has been applied by the officers entrusted and charged with enforcement of said laws to your orator's said lands and the said lands and property of your orator thereby assessed at a value greater than the true cash value thereof and your orator thereby made liable to contribute a larger, grossly unequal and entirely disproportionate amount, the true cash value of his property being considered, to the public funds, than as if said constitutional provision were followed, your orator thereby being denied the equal protection of the laws and deprived of his property without due process of law in violation of the constitution both of the State of Michigan and of the United States.

12. That the legislature of the State of Michigan by thus defining the term "cash value" legally construed the same thereby exercising, in violation of the system of government which obtains in the United States and the various States thereof, judicial functions, and rendered such legislative judgment or decree in the absence of and in advance of any notice, hearing or showing re-

garding such construction; that such construction is manifestly erroneous, and deprives your orator of the rights and privileges secured to him by the Constitution of the United States.

13. That said lands of your orator consist almost entirely of wild and unimproved lands from many of which the timber has been entirely or partially removed; all of which said lands he claims to be in constructive possession of where not holding actual possession.

151 14. That said lands of your orator have at all times been assessed at other than their actual or true cash value and at other than their "cash value" as [illegible] term is employed in article XIV, section 12, of the constitution of said State, to-wit at the sum of five ($5.00) dollars per acre when your orator was offering said lands at two ($2.00) dollars and less per acre and was unable to obtain therefor said sum of two ($2.00) dollars and less per acre for said lands, and said lands have been thereby discriminated against as well as your orator, and your orator has thereby been denied the equal protection of the law and deprived of his property without due process of law.

15. That your orator's said lands have been assessed at a higher valuation then those of others in the same township, for example, your orator's said lands, meaning unimproved lands have been assessed at a higher figure and valuation then neighboring or adjoining lands not differing in natural value, upon which buildings have been erected and improvements have been made. For example, your orator received from the State of Michigan, in payment of contracts with it or purchased in the open market from others who had received the same from the State of Michigan, certain credits, called scrip, which said credits or scrip, your orator exchanged for said lands at the rate of one acre for every one dollar and twenty-five cents ($1.25) in scrip, and as soon as said lands became your orator's the assessing officers immediately placed an assessed valuation thereon of five ($5.00) dollars per acre and have maintained such excessive valuation although adjoining and improved lands with buildings etc., were assessed at a less valuation; and said assessing officers and the board of review refused to lower said excessive valuation even in cases where

152 the supervisor or assessing officer of the township desiring to purchase some of the lands so assessed at five ($5.00) dollars per acre, offered therefor the sum of one ($1.00) dollar per acre and refused to purchase where your orator offered to take for said lands at first one dollar and seventy-five ($1.75) per acre and finally one dollar and fifty cents ($1.50) per acre; which said alleged assessments then and at all times thereby worked a fraud both in fact and in law upon your orator, denied him the equal protection of the law, unjustly discriminated against him and his said lands and deprived him of his property without due process of law, and in violation both of the constitution of the State of Michigan and of the United States, particularly the XIVth amendment of the latter.

16. That under the constitution and laws of the State of Michigan, your orator's lands have been subjected to double and grossly unequal taxation by reason of the fact that each year the deficit of the previous year or of a proceeding year or years has been included in and made part of the taxes assessed upon your orator's said lands, that is to say:—that as required by article XIV, section 1, of the said constitution of the State of Michigan the legislature and executive officers of the State government include each year in the estimates of the amounts to be raised by taxation and raise by taxation throughout the State, an amount to cover such deficiency as occurs each year in the resources of the State and thus each year or in a succeeding year since the adoption of the present constitution in 1850, the taxes assessed against any lands and remaining unpaid the preceeding year have been included in the general estimates and assessed generally upon all lands, thus collecting and paying by such assessment all State taxes remaining unpaid in each year; and said delinquent taxes were and are thus collected and paid
153 one year or thereabouts in advance of the time when by law said lands could or can be sold for taxes, and the same course and system have been followed in the assessment and collection of the township, city and county taxes, and each year the taxes remaining unpaid are and have been collected by general re-assessment the following year or in a subsequent year.

This system of collecting the taxes results in grossly unequal, double, duplicate, recurring and cumulative and in effect progressive assessments and taxation, and in the taxation of one county and township for the benefit of another or others and your orator and his said lands were and are subjected to said method and thereby to gross, unequal, duplicate, double, recurring and cumulative assessments and taxation which is destructive and confiscatory of your orator's property and from which your orator and the county or municipality in which he resided or had property received no benefit, so that all the rules of apportionment were violated by all said assessments, and taxation in all said years upon said lands was in contravention and violation of the Constitution of the United States particularly the XIVth amendment thereof in this that said constitutional provision of the State of Michigan and the method of assessment and taxation followed in pursuance thereof deny to your orator the equal protection of the law and deprive him of his property without due process of law and shifts and has each year from 1865 to the present time shifted the tax from one tax-payer and one municipality to another, to-wit from the remaining counties and included municipalities the residents thereof and the lands therein to your orator, his said lands and the counties and municipalities in which said lands are situate.

154 17. That by the law of the land as a constitutional right, your orator was entitled to a hearing as to the assessment of his said lands before an impartial tribunal and one authorized by the Constitution and not obnoxious to the Constitution of the United

States but your orator has been denied such right and opportunity and none of said laws provide such an opportunity,

For example, the tax law of 1869 provides that all property shall be assessed by the supervisor of each township, and that such supervisor shall review the assessment so made, said supervisor thereby becoming in effect the judge in the matter in which he is interested, and both in making and reviewing said assessments so made by him, said supervisor acts in a judicial manner, and his decision is final. And under said tax laws of 1882, 1885, 1889, 1891, and 1893 the supervisor of each township acts as the assessor in assessing the property and with two electors chosen at the annual town meeting constitutes a board of review to review said assessments so made by said assessor but said board of review as so constituted, exercises judicial powers of the same nature as said supervisor in violation of the Constitution both of the United States and that of the State of Michigan; and it is provided that the decision of said board shall be final.

18. That all of said laws contain provisions in force during their operation requiring the officers entrusted with the administration of said laws and the assessment of property thereunder to make demand upon your orator for a statement upon which to base the assessment of his property thereunder and no such demand was or has been at any time made upon him, that is to say, no such demand was made by said officers or any of them upon your
155 orator in the year 1900 or any previous year.

19. That all of said laws contain provisions which were in force while said laws were in operation requiring the officers entrusted with the administration and the collection of taxes thereunder to demand payment of said taxes from all persons against whom, or whose property, taxes had been assessed; and that no such demand was at any time made upon your orator; that is to say, no such demand was made by said officers or any of them in the year 1900 or any previous year upon your orator.

20. That all of said laws contain provisions which were in force while said laws were in operation requiring the officers entrusted and charged with the administration thereof and the collection of all taxes assessed thereunder to collect all of said taxes so assessed by seizing the personal property of such person to whom the said taxes were assessed to an amount sufficient to pay such taxes as were assessed against said lands together with all fees and charges for subsequent sale, wherever the same may be found in the county in which said officers reside or in an adjoining county, but that although said counties are adjoining and in all said counties your orator at all times had sufficient personal property subject to seizure as aforesaid out of which said taxes; if any such taxes had been levied against it, his said lands or himself, could have been collected, yet at no time has such seizure been made or any attempt to do so, that is to say, in 1890 your orator had in his possession and owned in said counties subject to levy as aforesaid personal property to the value

of ten thousand ($10,000.00) dollars and upwards in which
156 said year the taxes assessed against your orator and his said lands amounted to over two thousand ($2000.00) dollars; and except as to amount, the fact was the same in each of the years from 1878 to the present time, in each of said counties and townships that is the personal property so held and owned by your orator and so liable to seizure always far exceeded the taxes assessed against him and his said lands.

21. That at all times and in each and every year from and previous to said year 1880 down to and including the time of filing this bill of complaint there were large quantities of personal property the amounts, kinds, *the* owners being too great and numerous to specify, not belonging to your orator in each of said counties and townships thereof where your orator's lands are situate subject to taxation, which were not assessed but were entirely fraudulently and intentionally omitted from the assessment roles, that is to say, in the year 1890, personal property in the county of Cheboygan to the value of to-wit one million ($1,000,000.00) dollars was so omitted, in the county of Alpena, to-wit one million ($1,000,000.00) dollars, in the county of Oscoda, to-wit one million ($1,000,000.00) dollars, in the county of Montmorency to-wit five hundred thousand ($500,000.00) dollars, in the county of Presque Isle to-wit one million ($1,000,000.00) dollars, and except as to amounts the facts were the same for each of the years from 1878 to the present time whereby the amount of taxes assessed against your orator his said lands and property was rendered excessive, unfair, grossly unequal and disproportionate.

22. That all said laws are void, unjust and –constitutional
157 and deprive your orator of his property without due process of law and deny to him the equal protection of the law for the reason that they do not provide for the uniform and equal assessment of property but tax one municipality or property in one municipality for the benefit of another, that is to say:—that personal property is, according to the provisions of said laws assessed variously at the residence of the owner thereof, at the situs of said personal property, or at the destination of said personal property being a place other than its situs, which may also be a place other than either its situs or the residence of the owner thereof, and said laws do not furnish any rule of classification to determine how or where such property shall be thus variously assessed, but the provisions thereof are contradictory and contrary to your orator's rights under the constitution both of the State of Michigan and that of the United States.

23. That said laws do not furnish rules of classification based upon relative differences and existing distinctions in property and resting upon an intelligible and reasonable foundation; but the same are arbitrary and discriminating.

24. In so far as said laws attempt to provide for a judicial determination of the validity of any alleged assessment and taxation

thereunder, more particularly the laws of 1882, 1889, 1891 and 1893, which provide a different system for selling lands for taxes from that which prevailed previous to 1882, the same are unconstitutional and void and obnoxious to the constitution of the State of Michigan and that of the United States for the reasons:—

(1.) That said laws particularly those of 1882, 1889, 1891
158 and 1893, do not observe the constitutional separation of the powers of government into legislative, executive and judicial, but blend them and cause the officers and members of one department to trespass upon the sphere and perform the duties and functions of the said other departments contrary to the republican scheme of government obtaining in the United States to the constitution of the State of Michigan and the Constitution of the United States both article IV, section 4, thereof guaranteeing every State a republican form of government, and the XIVth amendment thereof:—that is to say, judicial duties are assumed by the legislature and conferred upon the auditor general by said laws while to the courts are delegated executive and ministerial duties; for example the legislature in effect pronounces decrees in tax cases while the court merely acts administratively or clerically in entering and recording such decrees, while on the other hand, the auditor general, a purely administrative and executive officer hears and determines controversies regarding and exercises his judgment and discretion in cancelling, tax deeds thereby performing judicial functions constitutionally exercisable only by a court.

(2.) That the proceedings under said laws particularly those of 1882, 1889, 1891 and 1893 are based upon an order purporting to be process of court which said process however is defective because not as required by law and the constitution of the State of Michigan, entitled and running, "In the name of the people of the State of Michigan."

(3.) That your orator has never been served personally with any process in any proceedings under said laws; said laws do not pro-
vide for personal service of process, except said law of 1889;
159 and there is no proof on file in said proceedings of any personal service on your orator.

(4.) That said laws and proceedings do not distinguish between residents and non-residents; but the decree of judgment taken thereunder purports to be a personal decree without personal service; and it is attempted to make a published notice thereunder, where the law itself does not name and fix the day of hearing, the equivalent of personal notice, which said published notice is not reasonably calculated to give reasonable legal notice and your orator his day in court.

(5.) That said proceedings cannot be upheld as proceedings *in rem* for the reason that said lands were never seized into possession by the court or said auditor general or his predecessors so as to constitute notice to your orator and for the further reason that said proceedings are had in a court of equity.

(6.) That the decree or decrees in the ostensible legal proceedings under said laws is or are in effect pronounced by the legislature and not by the court.

(7.) That there is no judicial record of said proceedings and none provided for by law although said matters are by law cognizable only by a court of record, and said courts of the State of Michigan are by law and custom, courts of record.

(8.) That there is not and cannot be, under the Constitution of the United States and that of the State of Michigan such a court as the legislature has attempted to create in and by said laws for hearing and disposing of tax matters and proceedings, and the system and proceedings inaugurated by the tax law of 1882 were up
160 to the time unknown in the State of Michigan and had not been due process of law up to that time, and are not such now, were and are unusual proceedings, and were not contemplated when the present constitution of the State of Michigan was adopted in 1850.

That the auditor general has resorted to said unconstitutional and void laws and proceedings and has by means thereof attempted and is attempting to deprive your orator of his said lands.

(25.) That said laws and the proceedings thereunder are confiscatory in their nature and not mutual in their operation; and attempt to deprive your orator of his said lands and property without adequate consideration in this to wit:—

(1.) That said laws and the proceedings thereunder, provide a means and method only by which your orator is deprived of his lands and property, but none by which it shall be preserved, retained or restored if wrongfully included in said proceedings or taken in violation of the rights of the owner.

(2.) That said laws and the proceedings thereunder attempt to deprive your orator of his property without adequate consideration therefor, and provide no method by which your orator, in case of the sale of his lands, can obtain the fair value thereof.

For example, said tax law of 1893 provides that the lands shall be sold not with reference to their value, as determined by assessment or otherwise, but to the person who will pay the tax and take the least undivided interest in the lands therefor, while under former laws it was for a specified interest to be set apart under the statutory rule *e. g.* from the north side of the parcel sold,
161 which said methods of sale are contrary to all legal and customary methods of judicial or public sales, and discourage bidding at such a tax sale for the reason that every person who would become the purchaser of the undivided interest in the parcel offered that would correspond to the amount of the tax for which the same is offered as compared with the total cash value of such parcel taken into consideration the fact that the purchase of an undivided portion of the parcel offered may mean a law-suit to have the premises so sold partitioned, and the amount of his purchase set off to him (said purchaser) so that in practice and effect the entire

interest in the lands offered, is sold for the taxes; and said method of selling is illegal for the reason that the statutory rule governing the attempted sale of such lands takes into account only the amount claimed against said lands, which, on the basis of the assessment and the rate of taxation is only a small fraction of the total cash value, although the evidence of the latter is on the roll before the State officers, when making such sale; and such system or method of selling for taxes does not consider the entire value of the lands attempted to be sold for taxes and provides no method by which the surplus value between the alleged tax for which the land is being sold and the total cash value can be saved or preserved to the owner.

(3.) That the decree made in the proceedings under which the alleged sales of said lands were held does not provide for the redemption of said lands although such redemption is provided for by law.

(4.) That said laws grant exemptions of both real and personal property from taxation based upon no other distinction than the amount of property possessed by the tax-payer which is a classification according to wealth.

162 That the auditor general has attempted by sales of said lands under the foregoing methods and provisions of law to deprive your orator of his title thereto.

26. That said laws do not comply with article IV, section 20 of the constitution of the State of Michigan which provides that "no law shall embrace more than one subject, which shall be expressed in its title," and particularly the general tax law of 1893 is open to this objection, and the laws purporting to be amendatory thereof, to-wit:—acts Nos. 25, 154, 162 and 229 of the Public Acts of 1895; acts Nos. 206, 214, 224, 229, 240 and 261 of the Public Acts of 1897 and acts Nos. 31, 32, 83, 107, 154, 169, 204, 215, 239, 262, 264 of the Public Acts of 1899, in this, that said amendatory acts introduce objects not included in said act No. 206 of the Public Acts of 1893, the same being the general tax law, and in no wise amendatory thereof, and many of said laws so far from being purely amendatory are repealing statutes; but are not so entitled. All said laws further violate said provisions of the constitution by prescribing periods of limitation within which tax-titles can be contested, and defining offences and providing penalties for the commission thereof, which said objects are not contained in the title of said laws.

27. That said laws attempt by curative provisions to dispense with notices, forms, records, the performance of acts and meetings of boards, etc., within, during and at the time fixed by said laws, and other requirements of said laws to the prejudice of your orator and in contravention and violation both of the Constitution of the United States and that of the State of Michigan and further said curative provisions are under the decisions of the supreme court of the

163 State of Michigan, so construed as to deny to the land-owner and tax-payer a hearing and opportunity to be heard.

28. That said acts No. 206 of the Public Acts of 1893 as amended

under which all tax proceedings are now conducted is unconstitutional and void for the following, reasons:

1. That it does not provide any uniform and equal rule of taxation or such rule of apportionment as is essential to taxation but discriminates against property and individuals as, for example, under the provisions of section 19, of said act, banks and companies incorporated and unincorporated are permitted to deduct their indebtedness from the gross amount *to* their personal property; while in the case of vessel property, the owner whether a corporation or individual is permitted to deduct its or his indebtedness from the entire amount of its or his property: while in the case of an individual not engaged in banking or not doing business under a corporate name or not engaged in the vessel business, and your orator is such an individual, his indebtedness can be deducted only from his personal credits; from which said section 19, it appears clearly that it is the intention of the legislature to permit deductions of indebtedness from other property in order to determine the amount of property which shall be assessed to any individual or corporation, and from section- 5 and 11 of said act it further appears that corporations and individuals stand alike and upon the same footing before the law so far as their assessment and taxation is concerned and are subject to the same rules of assessment and taxation, but it is impossible to apply the foregoing
164 and conflicting sections and rules of assessment and taxation to the property of persons, including corporations and particularly to your orator and his said lands and property without producing great injustice and gross inequality in the assessment and taxation of the same and thereby causing discrimination against and confiscation of his property and thereby denying him the equal protection of the law and depriving him of his property without due process of law in contravention and violation of the Constitution both of the United States and of the State of Michigan.

(2.) That your orator is largely indebted in respect of said lands to-wit to the amount of fifty-cents ($0.50) or thereabout per acre which said indebtedness by reason of said provisions of said law and the construction placed thereon by the defendants and other State officers, your orator is unable to deduct from the assessed valuation of said lands although property of the same kind and class as that upon which said deductions are allowed to others, thus subjecting your orator and his said lands to discrimination and imposing thereon an unequal and excessive share of taxes and depriving your orator of his property without due process of law.

(3.) That the courts of the State of Michigan exercising the powers imposed by the general tax laws are courts of limited and special jurisdiction and could and can exercise only those powers, if any, conferred by the said laws and can now exercise only those powers, if any, conferred by the statutes known as the general tax law of 1893, as amended; that the said tax law of 1893, provides by section 61, what the petition filed by the auditor general for

the sales of lands delinquent for taxes shall contain and amongst other things, said section 61, provided until amended by
165 act No. 262, of the Public Acts of 1899, that lands bid off to the State while so held shall not be so included in the said petitions of the auditor general filed in each year; and said petitions and the record or records of said court failed to show affirmatively in any given case that said lands while so included in said petitions were not lands bid off in the name of the State and thus held, and it was necessary that such petition or record should make such showing before the court would have or acquire jurisdiction; and the court has in every instance attempted to exercise such jurisdiction and professed to proceed to a decree and sale of said lands without such showing; and in doing so said courts acted entirely without jurisdiction and it is attempted thereby to deprive your orator of his said lands in contravention and violation of the XIVth amendment of the Constitution of the United States.

(4.) That said law as interpreted by the supreme court of the State of Michigan attempts, even whereby the provisions of said law and the decisions of said supreme court the attempted sales of lands for delinquent taxes are entirely without jurisdiction to compel the land-owner to institute proceedings to set aside such void sales or lose his lands, claiming that the land-owner delaying to attack an absolutely void sale can be guilty of laches and thus lose his remedy, thereby threatening to deprive your orator of his property without due process of law in violation of the Constitution of the United States and that of the State of Michigan.

(5.) That under the provisions of said law if there are no bidders for the lands offered for sale for delinquent taxes, said
166 lands so offered, and for which no bids are made, are bids off by the county treasurer in the name of the State for the State, county and township in proportion to the taxes, interest and charges due each; and if so bid off to the State for consecutive years the said lands so bid off under the provisions of said law, may without any hearing or opportunity to the owner or others interested therein to be heard, be declared homestead lands and open for entry as State homestead lands at the price of ten cents per acre, coupled with other conditions including five years' continuous residence on said lands and improving the same; and when so set apart for homestead lands, all the taxes thereon are cancelled although far exceeding in amount said sum of ten cents per acre, and said lands are thereupon exempted from taxation; said lands, including some lands of your orator have been so homesteaded, that is, placed upon the State homestead list, in the counties and townships in which your orator's said lands are situate whereby your orator and his said lands have been discriminated against and a greater burden imposed upon him and them, and the credits, property and money of said townships and counties confiscated by the State with resulting losses, to, and increased taxation of your orator and his said lands, thereby denying to your

orator the equal protection of the law and depriving him of his property without due process of law.

(6.) That the general tax law of 1893, as amended by act No. 154 of the Public Acts of 1899, provides for a board of State tax commissioners, which said board, it is claimed, has been organized under said act and acting under its pretended powers threatens
167 to carry the same into effect in spite of the fact that the powers conferred upon said board are unconstitutional and void for the following amongst other reasons, to-wit:—

(*a.*) That said board is not authorized by the constitution of the State of Michigan and exercises powers for example, of local self-government and judicial powers, without any constitutional warrant, and in spite of the fact that said powers, are, to the exclusion of said board or other body created by the legislature, lodged elsewhere:

(*b.*) That said board is authorized and attempts to make, change and alter at its will, local assessments after the same have been made by the legally constituted assessor of each municipality and reviewed in the manner prescribed by law and even after payment of taxes based upon such assessment;

(*c.*) That the powers conferred upon said board are inimical to and destructive of, the principle of local self-government inherent in the institutions of the State of Michigan and of the United States;

(*d.*) That the powers conferred upon said board, carried into effect, are taxation without representation.

(*e.*) That said act confers upon said board, and said board as organized thereunder attempts to exercise judicial powers contrary to law and to adjudicate and pass upon the rights of your orator and deprive him of his property without due process of law and without trial by jury as by law he is entitled to.

(*f.*) That said board, pretending to act under said law, exercises inquisitorial powers contrary to the Constitution of the United States and amendments thereof; and said laws, by which said
168 board is constituted, abridge the rights, privileges and immunities of your orator as a citizen of the United States by subjecting him to unreasonable searches:

(*g.*) That said law provides in case of its violation for punishments which are uncertain, cruel, double, excessive and unusual;

(*h.*) That although said board as created by said law, comprises three members, yet contrary to due process of law, it is not by the provisions of said law required to act as a board and be governed by a majority vote of its members; but each member may exercise all its powers singly, separate and apart from others and the board thus be in session at three places at once, thereby losing its identity as a board and the powers to perform the functions of a board.

(*i.*) That said board attempts to institute proceedings and inquiries not authorized by law and this in the exercise of legislative powers improperly delegated to it by the legislature; by preparing forms to be filled out by all tax payers (including your orator) to

contain a statement of all property of such tax payers (including your orator) which said forms said board compel such tax payers (including your orator) to fill out and return to said board which said forms, however, are not prescribed by law.

(*j.*) That said law and the provisions thereof governing said board attempt to confer absolute power and authority upon said board thereby making the decisions of said board and of its several members final and preventing your orator from resorting to the courts for the determination of any question of which said board claims to have jurisdiction.

(*k.*) That said law compels a person to become a witness against himself, and to give testimony upon which criminal
169 charges could be based and criminal prosecutions maintained contrary to the rights, privileges and immunities of your orator as a citizen both of the State of Michigan and of the United States.

(*l.*) That said law is uncertain, vague and indefinite in its terms and provisions, and therefore void and unconstitutional.

(*m.*) That said law provides that said board may issue subpœnas to witnesses to appear and testify to-wit, your orator presumably at the will of said board anywhere in the State of Michigan to-wit:— in a place and county long distant from and other than the home, residence and place of business of such witnesses without compensation; and on failure of such witness to-wit, your orator, to obey the subpœna of said board said law provides that upon proper showing of service of, and refusal to obey, such subpœna attendance of such witnesses may be compelled by attachment to be issued by any circuit court in the State, presumably a circuit court of a county other than that of the residence home and place of business of such witnesses, when as a matter of fact the circuit court is in the State of Michigan, organized by counties, and the jurisdiction thereof is local to each county and does not run into other counties as herein attempted, which said proceedings as by said law authorized are therefore without jurisdiction and do not constitute due process of law.

(*n.*) That said law defines and provides punishments for alleged offences committed against the provisions of said act; but the title thereof does not contain or intimate that said act is penal in its scope or the said law in its administration; thereby containing ob-
170 jects not embraced in the title contrary to the constitution of the State of Michigan and depriving your orator of his property without due process of law.

29. That said laws as construed by the courts and executive officers of the State of Michigan are unconstitutional; and are systematically construed and enforced as herein set forth in violation of your orator's fundamental rights as a citizen of the United States as secured by the Constitution thereof and the amendments thereto.

30. That by the constitution of the State of Michigan, article IV,

section 22, it is required that all printing for the executive departments and all other printing ordered by the legislature shall be let by contract to the lowest bidder or bidders who shall give adequate and satisfactory security for the performance thereof, and the printing of the tax lists provided for by said laws is printing for the executive departments and printing ordered by the legislature; but, so far from contracting for the same, the auditor general under the authority of said laws but in violation of said constitutional provision pays therefor to a partisan newspaper designated by him the sum of forty cents per description and attempts to collect the same by the sale of your orator's lands, which said sum of forty cents is an exorbitant and unreasonable charge compared to what the same would cost if let by contract and the sum of five (0.05) cents per description would be a reasonable charge for said printing which is sublet for less than five (0.05) cents per description, and said laws thereby take and deprive your orator of his property without due process of law, contrary to the Constitution of the State of Michigan and that of the United States.

171 31. That the auditor general formerly included as a charge against each description of land, your orator's said lands amongst others, the sum of seventy cents, now made one dollar, for cost of advertising and other expenses of sale under said laws, which said sum is included in and made a part of such charges before any part thereof with the exception of the advertising, is incurred and with the exception of the advertising, no expenses are incurred in and by said sale that have not already been provided for and included in the salary of the clerks or officials performing any service or duty under said laws and proceedings, all of which said expenses of sale as aforesaid are included in the taxes for which said lands are attempted to be sold, whereby it is attempted to collect twice from your orator the same amount and to impose upon him and his said lands a double exaction for one and the same charge thereby attempting to charge him for services not performed, a sum amounting to from $400.00 to $800.00 per annum thus depriving him of his property without due process of law, and it — attempted to collect said charges and expenses of sale against said lands where the proceedings for sale and the sale as well as the taxes were invalid and neither the State nor the auditor general was entitled to judgment therefor.

32. That said laws all provide in case of non-payment of alleged taxes claimed to be payable thereunder for the payment of a collection fee, in addition to the interest upon said alleged taxes as provided by said laws, said collection fee to be collected therewith, if said alleged taxes are not paid when claimed to be due, which said collection fee upon each year's alleged taxes is included in and

172 made a part of the charges etc., for which it is attempted to sell said lands although all expenses of sale and collection are already included in and form a part of the alleged taxes assessed against said lands and for which it is attempted to sell said lands,

whereby it is attempted to make a double charge against your orator and his said lands for one and the same item, and thereby deprive him of his property without due process of law and such collection fee is an unreasonable and unjust charge and even if collectible under the former tax laws is not, now that said laws have been repealed, reasonable or recoverable.

33. That said tax laws impose various rates of interest upon delinquent and unpaid taxes which rate of interest has now been fixed by act No. 262 of the Public Acts of 1899 at the rate of one per cent. a month and it is attempted to apply the same to all taxes whether assessed before or after the passage of said laws or under said law of 1893 or a former law or laws, which said rate of interest is more than double the rate of simple legal interest in the State, is a penalty, and is unreasonable and amounts to the confiscation of your orator's property and the taking of the same without due or any process of law.

34. That no valid or legal taxes have been assessed against your orator and his said lands; but that all alleged charges purporting to be taxes, etc., against him and his said lands are illegal, void and unconstitutional.

35. That all of the taxes assessed in each year upon said lands and the sale of the said lands therefor are invalid and illegal for one or more of the following reasons, in addition to those given elsewhere herein, as your orator is informed and believes, that is to say:

173 (1.) That the township taxes where voted by the township board were so voted.

(*a.*) Without any showing or it appearing of record anywhere as required by law that the qualified electors had neglected or refused to vote such sums of money as were necessary to defray the ordinary township expenses.

(*b.*) Without it appearing that said taxes were necessary to defray the ordinary township expenses.

(*c.*) That said taxes were voted for other than township expenses and exceeded the sum, in any one year, of one thousand dollars.

(2.) That said townships, counties and the State levied generally delinquent taxes instead of charging the same back to the land, townships and county delinquent therefor.

(3.) That the various taxes levied both singly and in the aggregate exceed the percentage and amount prescribed by law.

(4.) That one per cent. has been added to the amount of the several taxes to be raised by the assessor for the purpose of avoiding fractions in the computation.

(5.) That said taxes have never been legally equalized and large classes of property omitted in any attempted equalization.

(6.) That said taxes have never been legally apportioned.

(7.) That said townships have been assessed and said taxes levied on said lands for the benefit of other townships in said counties in the State of Michigan.

(8.) That said lands have not been assessed in the name of the owner thereof although the assessor knew or could have ascertained the name thereof.

174 (9.) That there was no warrant attached to the rolls for the collection of taxes, and that said taxes on said lands have been prematurely, improperly and illegally returned delinquent.

(10.) That the tax roll was not signed by the supervisor.

(11.) That the minutes and proceedings of the board of supervisors were not signed by the chairman and county clerk as required by law.

(12.) That the board of review in the several townships did not sit for the period required by law.

(13.) That the board of review did not certify to the tax rolls as required by law.

(14.) That some of the taxes are placed on the tax rolls in the column which does not designate them.

(15.) That where drain taxes have been levied, ten per cent. has been added to the amount of the estimated cost.

(16.) That the county treasurer in selling did not observe the requirements of law as to the order and time of sale of different parcels, particularly of those sold to the State.

(17.) That in the auditor general's proceedings in each of the said years said lands have been included in the auditor general's petition while held by the State on State bids.

(18.) That in each of the above proceedings for the taxes of each of said years, the decree was made prematurely, and the court thereby, if it ever had acquired, lost jurisdiction of said proceedings and the sales thereunder are entirely void.

175 (19.) That the salaries have been voted county officers by the board of supervisors and included in said taxes without warrant or authority of law, to-wit:—for sheriffs' salaries.

(20.) That the estimates and taxes levied and collected in all said counties include salaries not authorized by law for county officers, to-wit:—for sheriffs.

(21.) That contracts were let without advertising for bids *e. g.* contracts for county printing.

(22.) That delinquent and rejected taxes payable by specific persons and property have been assessed generally and are included in said taxes and on said lands.

(23.) That the county highway fund has been expended on other than State and county roads.

(24.) That the county highway fund has been divided equally amongst townships and expended under the directions of the township officers.

(25.) That the record of equalization of the township assessment rolls in the counties was not signed by the chairman of the board of supervisors and the county clerk as required by law.

(26.) That said counties were bonded without authority of law

and taxes levied and collected for the purpose of paying such bonds.

(27.) That the highway fund was not expended in the township where raised.

(28.) That five hundred ($500.00) dollars was voted by the county of Alpena to the city of Alpena to aid in erecting and establishing a market and taxes levied for the same, for which there is not authority or warrant of law.

(29.) That money was borrowed in a manner and amounts not authorized by law, for example bonds were issued, and
176 money borrowed where the question of issuing such bonds had not been voted for by a majority of the electors in the county or township as required by law and in some cases money was borrowed without submitting the matter to the vote of the electors.

(30.) That the equalization of said township assessment rolls was not of property at its true cash value.

(31.) That funds were voted for purposes other than those named.

(32.) That the number of acres in a parcel is not designated on the tax roll.

(33.) That there is no entry on the tax roll opposite some parcels of land to show to whom the same belong, or that the name of the owner is unknown.

(34.) That the amount of taxes is not entered opposite some descriptions of land although there is entered opposite other descriptions of land on the same roll in the same township what purport to be the proportionate amount of such tax against such other descriptions.

(35.) That more than one tax appears in a single column.

(36.) That the assessed valuation was excessive.

(37.) That the valuation was not fixed according to law for example,—in Presque Isle county—the board of supervisors in 1880, adopted the following rules for assessing lands—pine lands at $5.00 per acre, farming lands of general average quality at $3.00 per acre, and stripped and improved lands at cash value, which said rules have never been rescinded by the board.

177 (38.) That in some cases after taxes had been assessed a percentage for example forty (40%) per cent. of the same was remitted, and the balances accepted in payment of the total amount but never in the case of your orator's lands.

36. That said void assessments can never be made the foundation for a valid decree therefor against the lands of your orator, and said void and illegal assessments are not severable but such void, and illegal assessments and taxes are entire and affect the whole tax levied.

(37.) That all matters and facts alleged herein are matters of public record in the said State of Michigan and said counties and said townships in the control and custody of said defendants to which said records for greater certainty your orator refers, which on ac-

count of their great number and length cannot be made part hereof, from which said matters and the facts ready to be produced and proved as this honorable court shall direct, will more fully and at large appear.

38. That said tax laws with the exception of the laws of 1869 and 1885 provide that the land shall be sold for taxes to the person who will take the smallest undivided fee simple interest therein and pay the taxes for which said land is offered, which method of sale, where the whole interest is not sold, imposes upon the land-owner a tenure of title not warranted or authorized by law and destroys or impairs his vested interests therein by forcing upon him without his consent a tenancy and ownership in and to said lands in contravention of the Constitution both of the United States and of the State of Michigan.

(39.) That the methods of sale provided by said laws are in-
178 consistent and inoperative for the reason that they leave legislative intent vague and uncertain in this to-wit:—that the method of sale may, although the purpose is merely the collection of taxes from your orator through the sale of the lands offered, result on the one hand in the purchaser becoming a joint owner, claiming under the same root of title and interested in maintaining said lands free from incumbrances, or on the other hand in said purchaser becoming the alleged owner of the entire fee-simple title claiming under a different root of title which is entirely hostile to and subversive of that of the owner, for which said reasons said laws are inoperative, unconstitutional and void as violating the Constitution both of the State of Michigan and of the United States.

40. That upon any lands being bid off to the State for taxes the State disposes of the same not to the highest bidder but to the first applicant who will pay the amount claimed thereon for taxes, etc. to the detriment of the owners thereof including your orator; but as a matter of right and justice other things being equal the owner of the original title thereof should have the preference.

41. That the constitution of the State of Michigan provides that all property, except property paying specific taxes shall be assessed at its cash value, and that the taxes so assessed include both real and personal property; but the equalization of the assessment rolls of the various townships in each county by the board of supervisors thereof in compliance with the terms and provisions of said laws is based solely upon the valuation of the real estate without regard to the personal property thereby producing an inevitable in-
179 equality and want of uniformity in the taxes assessed in the various townships especially in the taxes assessed upon real estate for county and State purposes thus imposing a grossly unequal burden upon your orator and his said lands and denying to him the equal protection of the law contrary to the Constitution of the United States and the XIVth amendment thereof.

42. That any system of taxation in order to apportion equally the burden thereof should take into consideration the character and

kind of property and provide proper rules of classification for the purposes of taxation, but said tax laws disregard any and all such rules of classification and jumble all property both real and personal together, and with comparatively unimportant exceptions where specific taxes are levied, assess all said property at the same time and rate thus creating a system that is incapable of producing approximate and reasonable equality, but must from its very nature in its operation result in gross inequality and discrimination and does work such an inequality to and discrimination against your orator and others, his said lands and the lands of others, contrary to the constitution of the State of Michigan and that of the United States particularly the XIVth amendment thereof.

43. That said laws do not tax the stock of national banks upon the same methods as other moneyed capital.

44. That personal property and real estate under the system of taxation authorized by law in the State of Michigan and herein set forth cannot be taxed at a uniform rate, although the constitution of said State provides they shall be so taxed, and it is unlawful to tax them otherwise, from which it results if the provisions
180 of said laws are to be observed, that said laws deny to your orator the equal protection of the law and deprive him of his property without due process of law.

45. That said laws provide that in case a tax title acquired thereunder is set aside by the court that the said auditor general shall refund to the purchaser the amount paid at the time of the sale with interest thereon at the rate of eight per cent. per annum from the time of the purchase to the time when the said sale was set aside thereby pledging the credit of the State in aid of private persons contrary to the constitution of the State of Michigan and denying to your orator the equal protection of the law and enacting class legislation contrary to the Constitution of the United States and the XIVth amendment thereof.

46. That the tax law of 1893 permits redemption, after one year has elapsed, from the sale made thereunder for taxes upon the condition that the owner pay the holder of the tax title the amount paid therefor with one hundred per cent. and all costs and charges, which requirement is a penalty that is unreasonable and contrary to the Constitution of the United States.

47. That said laws of 1869, 1882, 1889, 1891 and 1893 although they are public acts and general laws applicable to the whole State of Michigan and are not uniform in their operation but by their terms, contrary to law and their obvious purpose, except certain cities and villages from their provisions by respectively enacting in express terms that "this act shall be applicable to all cities and villages when not inconsistent with their respective charters" thereby limiting provisions and operations of the general tax law to those cities and villages which had not by local law obtained special
181 grants of powers and privileges relating to the assessment and collection of their taxes, whereby different methods of the as-

sessment and taxation as well as for the sale of lands for taxes and interest thereon, etc., obtain in different cities and villages of the State which are different from the methods provided by the general tax law, but are too numerous to mention and specify in detail.

For example, the tax law of 1893, which in addition to the foregoing provided that "in cities where some special provision is made for demand and collection of taxes, the collector or treasurer shall comply with such special provision, otherwise — bound by the provisions of this act," also provides for a judicial sale of lands for taxes, which said judicial sale, however, or any proceedings looking to the same, are not held or observed in the city of Grand Rapids, Michigan, for the reason that the charter of the city of Grand Rapids provides in title VIII, the sections 21, 22, 23, thereof that:—

"SECTION 21. Owners or parties having legal interest in any real estate assessed under the provisions of this title shall be liable to pay every tax regularly assessed thereon, and if the same shall not be paid by the first day of March following the assessment of the same, it shall be the duty of the city treasurer to cause a notice to be published in the two official newspapers of the city, once a week for four successive weeks, requiring the owners or parties having legal interest in such real estate to pay such tax together with all interest and charges thereon, and if default shall be made in paying the same such real estate will be sold at public auction on the first Monday in April thereafter, at nine o'clock in the fore-
182 noon of that day, at the court house in said city, or as soon thereafter as the description of such real estate shall be reached in the course of the sale, at the highest price which shall be bid for the same, for the payment of such tax and interest and charges thereon, together with all costs and charges of sale. Such sale shall be continued from day to day, Sunday and legal holidays being excluded, from the hour of nine o'clock in the forenoon until the hour of twelve o'clock noon, and from the hour of one o'clock in the afternoon until five o'clock thereafter of each day, until such delinquent taxes are disposed of by such sale.

"SECTION 22. The costs of the advertising, provided for in the proceeding section, shall in no case exceed the sum of forty cents for each description of real estate advertised, and shall be paid out of the general fund of the treasury not otherwise appropriated. Each description of real estate shall be separately exposed for sale for the total amount of the tax, all interest and charges thereon together with all costs and charges of sale and shall be sold to the person who bids the highest price for such real estate; Provided, that no bid shall be accepted for less than the amount of such tax, all interest and charges thereon, together with all costs and charges of sale.

"SECTION 23. If the owners or persons having a legal interest in any such real estate do not pay such assessment, or tax together with all interest and charges thereon, within the period above prescribed for the publication of such notice, then it shall be the duty

of said city treasurer to cause such real estate to be sold at public auction to any bidder, to pay said tax, with all interest and charges thereon, and the costs and all charges of said sale,
183 and to execute the proper certificate of sale to the purchaser thereof. If there shall be a sum bid for such real estate in excess of the said tax, and of the interest and charges thereon together with all costs and charges of sale, the excess thereof shall be deposited with the city treasurer to be disposed of as hereinafter provided. If such real estate shall not be redeemed within one year after such sale thereof as hereinafter provided, the mayor of said city shall in the name of the city, execute and deliver to such purchaser or his assignee the proper deed of conveyance of such real estate which deed shall be *prima facie* evidence of the regularity of all proceedings under which said sale is made and said deed executed. The deed shall be as follows: Whereas, on the — day of —— A. D. — at a public sale made by the city of Grand Rapids for taxes duly assessed by the city of Grand Rapids, for the following purposes (stating the purpose for which the assessment was made) A—— B—— became the purchaser of the following described real estate namely (describe real estate) for the sum of — dollars that being the amount of the tax, interest, costs, and charges thereon. Now, therefore, know all men by these presents, that I C—— D—— mayor of said city in consideration of the premises, do hereby grant, bargain, sell and convey to the said A—— B——, his heirs and assigns, the real estate above described, as so purchased by him, to have and to hold the same to the said A—— B—— his heirs and assigns forever.

Witness my hand and the seal of the city this — day of —— A. D. —.

Signed, sealed and published in the presence of

C—— D——,

Mayor of the City of Grand Rapids."

184 That the sale of lands for taxes in the said city of Grand Rapids is held annually in accordance with the said charter provisions.

That said provisions of the tax law from which the said city of Grand Rapids is exempted relate to the jurisdiction of the court of chancery in exercising its alleged jurisdiction under said tax law and said alleged jurisdiction is thus curtailed and limited without warrant or authority of law and by reason of said local privileges and exemptions, and the consequent partial instead of uniform operation of said laws, a different rule or rules govern your orator and his said lands from other-, for example, land and land-owners of the city of Grand Rapids, and a different rule of property obtains there and he is thereby deprived of his property without due process of law and denied the equal protection of the law and said tax laws

are therefore void and unconstitutional, as being obnoxious to the Constitution both of the United States and of the State of Michigan.

48. That said laws in so far as they attempt to confer jurisdiction upon the courts of the State for their enforcement and in, at the same time, as they do, limiting and curtailing said pretended jurisdiction by exempting certain villages and cities therefrom are unconstitutional and void being in contravention of the Constitution both of the State of Michigan and of the United States, particularly the XIVth amendment of the latter.

49. That it is impossible to ascertain or approximate what would be a fair or just amount for your orator to pay on account of taxes; but, everything considered, your orator has now overpaid by reason of the said unequal, unjust and discriminating rules of assessment and taxation and illegal exactions thereunder any sum that
185 in fairness or justness could be demanded *by* him; but should it hereafter turn out that said laws are constitutional and that any sum is payable by him, your orator is willing and ready and hereby offers to pay the same when legally ascertained.

50. That the alleged claims for taxes charges against said lands were, when assessed, void and unenforceable, and even if valid when assessed have by successive assessments, in which they were reassessed, been fully paid and discharged and are now old, and stale demands neither due nor enforceable having no legal origin and possessing no legal force; but immediately upon its becoming evident that said auditor general intended to carry his said threats into effect and deprive your orator of his said property by actions based upon and enforcing said illegal claims and claimed through sales made in said actions to have deprived your orator of all right, title and interest in and to said lands, your orator filed his bill of complaint herein.

51. That your orator relying upon the fact that said taxes and the titles founded thereon were void and regarding said taxes and tax titles as void was under no necessity and took no steps to have the same set aside or restrain said auditor general from enforcing the same and no effectual attempt was made until recently to enforce them, and now, however, said auditor general claims said taxes are a valid lien upon the lands of your orator, and that the titles founded thereon are valid and threatens to deprive your orator of his title and property in and to said lands contrary to the Constitution of the United States and the XIVth amendment thereof and in order to protect his said rights your orator has been forced to resort to this court.

52. That your orator has caused an examination to be
186 made of the records in the office of the auditor general and that no third person has by reason of said taxes acquired any right title, claim or interest under the proceedings of the auditor general in and to any of said lands, a schedule of which is hereto attached.

53. That all of said tax laws are public acts dealing only with the interest of the State, and with property so far as it is affected with the public interest; but said laws in spite of this fact include objects and remedies that are purely private; and attempt to follow and control the alleged lien of the State for taxes attempted to be levied under said laws after it had passed to and become, in so far as said laws can do so, the property of third parties; but said laws provide no remedies or other protection for the owner of the lands affected.

54. That none of said tax laws except those of 1889, 1891 and 1893 purport or attempt to operate retrospectively; and that in so far as said tax laws of 1889, 1891 and 1893 purport or attempt to operate retrospectively said laws are unconstitutional and void, in this to-wit: that they impose terms, conditions, penalties and procedure, foreign, unknown to, and not imposed by the laws which they repeal in relation to the taxes and matters concerning which they attempt to operate retrospectively, and unknown and not contemplated when the present constitution of the State of Michigan was adopted in 1850.

55. That the State of Michigan was admitted into the Union as one of the United States upon certain conditions prescribed by the act of Congress approved June 23rd, 1836, which said act
187 of Congress and the conditions therein contained were assented to by the State of Michigan by an act approved July 25th, 1836 and afterwards ratified at a convention held at the city of Ann Arbor in the said State of Michigan on the 15th day of December A. D. 1836, one of which said conditions of admission to said Union was and still remains "that in no case shall nonresident proprietors be taxed higher than residents," and such conditions is and has, at all times since — year 1836, been part of the fundamental law of the State of Michigan, paramount to both its constitution and laws; and it has been at all times the duty of the said State of Michigan and of the legislature thereof to provide by suitable legislature for the recognition and enforcement of said condition of admission and said condition of admission was and is a condition precedent to the enactment of any law imposing taxes or prescribing methods of taxation, but the State of Michigan and its legislature have entirely disregarded said condition and have neglected to provide for its recognition and enforcement, and it is a notorious fact that said condition has in the assessment and taxation of persons and property been abrogated, set aside and disobeyed, and none of the general tax laws provide for any method by which said condition can be recognized and enforced to the great injury and detriment of your orator and his said lands, and said laws are therefore unconstitutional and void.

56. That under the provisions of said laws the auditor general attempts and pretends to acquire, on a sale of said lands for taxes, title in fee simple thereto; and to cut off all right title and interest of your orator therein; and thereupon after such sale as afore-
188 said continues to assess said lands to your orator and to

charge against him and his said lands subsequent taxes, and the costs, charges and expenses thereof.

57. That said laws attempt to deprive your orator of his rights and privileges as a citizen of the State of Michigan and of the United States by denying him access to the courts and limiting his rights and remedies therein *e. g.* by denying him relief except in the cases specified in section 7[illegible], of the general tax law of 1893; by denying him in all cases the writ of injunction although he may without such writ suffer irreparable injury and by requiring payment of a tax as a condition precedent to the right of appeal, etc., in violation and contravention both of the constitution of the State of Michigan and that of the United States and particularly of the XIVth amendment of the latter.

58. That the auditor general of the State of Michigan, said county treasurers of the several counties of Alpena, Cheboygan, Montmorency, Otsego and Presque Isle and all other persons, if any, asserting any rights or claiming any title or attempting or threatening to do so under the provisions of said laws are trespassers.

59. That the proceedings taken in the said several townships and counties to assess your orator and his said lands and the attempted and threatened sales of your orator's said lands under the provisions of said laws constitute a cloud upon the title of your orator in and to the said lands which ought to be removed and unless so removed by the decree of this honorable court, will greatly depreciate the value and prevent the sale thereof to your orator's permanent and irreparable loss, damage and injury; and your orator is without any adequate remedy therefor at law.

189 60. That by reason of said alleged assessments, taxation and proceedings to sell said lands for said alleged delinquent taxes, no vested interest has been acquired therein by the State or any person or persons, if any, claiming through the State, and none can be so acquired.

61. That all of the provisions of said statutes if constitutional, which your orator denies and of which complaint is here made, that they were not observed, were mandatory and for the benefit of your orator and necessary to be observed as he has here claimed in order to confer jurisdiction, if any, upon any officer or court purporting or professing to act thereunder, and it was necessary that all such provisions be observed in order, as indicated and claimed, before one taking any steps subsequently in said proceedings, or under said laws or any of them would acquire jurisdiction; and such mandatory proceedings not being so observed all subsequent proceedings were without jurisdiction; even if otherwise constitutional and in that case your orator has been prejudiced by non-observance of said mandatory proceedings.

62. That said provisions of said laws herein complained of, contravene and violate the Constitution of the United States and particularly the XIVth amendment thereof in this, to-wit:—that they deprive your orator of his property without due process of law, and

deny to him the equal protection of the law; but although claimed and alleged by your orator to be void and unconstitutional, yet the same are being acted upon and enforced by the auditor general, said defendants, and the courts of the State of Michigan, as valid.

190 63. That the unconstitutional and void features and provisions of said laws herein complained of extend to and effect said laws as a whole and render the same unconstitutional, void and unenforceable, for the reasons that the unconstitutional and void parts pointed out are so related to, connected with and dependent upon the remaining parts thereof, that they cannot be separated therefrom without doing violence to the whole; and the intention of the legislature as expressed in said laws cannot be carried into effect without said void and unconstitutional parts.

64. That if said laws are not unconstitutional for the reasons herein stated, or if said reasons establish only the unconstitutionality of parts of said laws without affecting the remaining portions thereof, then for reasons herein given all proceedings under said laws are void and unconstitutional under the Constitution both of the State of Michigan and that of the United States, particularly the XIVth amendment thereof.

65. That all said lands described in said Exhibit "A" are of the value of fifty thousand ($50,000.00) dollars and upwards exclusive of any lands which have been placed on the homestead list, and said auditor general claims to own the same and your orator has reason to believe and apprehend and does greatly fear that said defendant, the auditor general, relying upon said tax-titles and others acting under his authority will commit waste upon said lands, interfere with the same and your orator's rights therein, and will sell, convey or otherwise dispose of said lands unless restrained by the order of this court.

66. That the rights and interests of all parties herein in the

191 premises can be determined and protected in this suit which otherwise cannot be done without a number of suits at law and in equity, and your orator has no adequate remedy at law.

67. That all said laws for the reasons herein given and set forth transgress and violate the fundamental principles upon which the governments of the United States and the State of Michigan and their constitutions are based and are therefore unconstitutional and void.

Forasmuch therefore as your orator is without relief except in a court of equity, your orator prays:—

I. That said defendants may be required to make full and direct answer to this your orator's bill of complaint, but not under oath, the answer under oath being waived.

II. That all said laws may be declared unconstitutional and void.

III. That all assessments made of said lands, all taxes levied thereon, and all sales of said lands for taxes under and by virtue of

said laws may be set aside, cancelled, held for naught and declared null and void, as a cloud upon the title of your orator.

IV. That all conveyances made in pursuance of said laws and sales thereunder may be declared null and void and ordered to be delivered up to be cancelled and in default thereof that the decree herein operate as such conveyance.

V. That your orator's title in and to said lands may be quieted and your orator declared the owner in fee simple thereof and entitled to possession of the same.

VI. That the defendants may, by the decree of this honorable court, be required to yield and deliver possession if in posses-
192 sion of said lands described in said Exhibit "A" to your orator, and that your orator may have the process of the court in due form to obtain possession thereof, and to remove therefrom all persons hereinbefore specified as now claiming said lands and parcels thereof and all other persons claiming by, through or under them or any of them, in the event that any such persons have since the filing of the bill of complaint herein, gone into possession of said lands or any part thereof.

VII. That the writ of injunction may issue out of and under the seal of the court to the above named defendants and each of them, their attorneys, solicitors, agents, and servants, commanding them and each of them absolutely and permanently to desist and refrain from committing any waste upon said lands described in said Exhibit "A" from assessing said lands or levying any taxes thereon against your orator under said laws, and from selling or attempting to sell said lands for said taxes or taking any other or further proceedings under said laws, in regard thereto, and from selling, conveying, encumbering or otherwise disposing of said lands or any parcel or part thereof or interest therein, and that in the meantime, they may be so restrained until the further order of this court.

VIII. That your orator may have such other and further relief in the premises as the nature of the case may require and shall be agreeable to equity and good conscience.

IX. May it please this honorable court, the premises being considered to grant unto your orator the writ of subpœna to be issued out of and under the seal of this court and directed to the said Roscoe D. Dix, auditor general of the State of Michigan, said Louis Bruder, county treasurer of Presque Isle county, Michigan,
193 James H. Kerr, county treasurer of Alpena county, Michigan, Thomas D. James, county treasurer of Cheboygan county, Michigan, Herman Lunden, county treasurer of Montmorency county, Michigan, Allen S. Martindale, county treasurer of Otsego county, Michigan, the defendants named in this bill of complaint and their successors in office, commanding them and each of them to be and appear in this court upon a certain day therein to be named and under a certain penalty therein to be inserted then and

there to answer this bill of complaint and stand to, abide by, and perform such decree as this court shall make in the premises.

And your orator will ever pray.

MERRITT CHANDLER.

——— ———,
Solicitors for Complainant.

Business address, Eddy building, Saginaw, Michigan.

STATE OF MICHIGAN, } ss:
County of Saginaw, }

On this 4th day of February A. D. 190–, before me a notary public in and for said county, personally appeared Merritt Chandler the complainant in the foregoing bill of complaint who first being duly sworn deposes and says, that he has read the foregoing bill of complaint by him subscribed and knows the contents thereof and that the same is true of his own knowledge except as to matters which are therein stated to be on information and belief and as to those matters he believes it to be true.

H. B. FERRIS,
Notary Public in and for Saginaw County, Michigan.

194 EXHIBIT "A."

S. E. ¼ of N. W. ¼ of section 11; town 33 north range 1 east. N. W. ¼ of N. E. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section 2; N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, W. ½ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section 2; N. E. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. ½ of N. E. ¼ section (3); N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (4); S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼, of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. W. ¼ of section (5); S. ½ of S. W. ¼ S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, of section (6); S. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (7); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, N. W. ¼ of N. W. ¼, N. E. ¼ of N. W. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ of section (8); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (9); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, N. W. ¼ of S. E. ¼ of section (10); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E.

¼, S. W. ¼ of S. E. ¼ of section (11); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼,
195 N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (12); N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. — of section (13); N. E. ¼ of N. E. ¼ of section (14); S. E. ¼ of N. W. ¼ of section (15); N. E. ¼ of N. W. ¼ N. W. ¼ of N. W. ¼ of section (17); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼ of section (18); N. E. ¼ of N. W. ¼ of, section (23); N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. W. ¼ of section (25); S. W. ¼ of S. W. ¼ of section (26); S. E. ¼ of S. E. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼ of section (27); N. E. ¼ of N. E. ¼ of section (29); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼, of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. W. ¼, of section (33); N. E. ¼, of N. E. ¼, S. E. ¼ of N. E. ¼, S. E. ¼ of S. E. ¼, N. E. ¼ of S. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, N. W. ¼ of N. W. ¼, of section (34); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (35); N. E. ¼ of N. E. ¼ of section (36); town (34); north range (1) east.

S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼ of section (4); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, of section (5) N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. W. ¼ of
196 S. W. ¼ of section (6); S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (7); S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (8); S. E. ¼ of S. E. ¼, lot (1) of section (11); N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, of section (14); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of S. W. ¼ of section (18) W. ½ of N. W. ¼ of section (19); N. E. ¼ of N. E. ¼ of section (23); N. W. ¼ of N. W. ¼ of section (24); N. W. ¼ of S. W. ¼, of section (25) S. E. ¼ of S. W ¼ of section (29); N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, W. ½ of N. W. ¼, S. E. ¼ of N. W. ¼, E. ½ of S. W. ¼, N. W. ¼ of S. W. ¼, N. ½ of S. E. ¼ of section (30); N. ½ of N. E. ¼, N. ½ of S. E. ¼ of section (31); S. W. ¼ of N. W. ¼ of section (33); N. E. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (36); town (35) north, range (1) east.

N. E. ¼ of N. E. ¼, of section (1); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼ of section (4); S. E. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼ of section (10); N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (15); N. E. ¼ of S. E. ¼, lot (7); N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, of section (17); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼ S. E.

¼ of S. W. ¼ of section (18); N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (19); N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, lot
197 (1); S. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼ lot (2), N. E. ¼ of S. W. ¼ of section (20); S. W. ¼ of N. W. ¼ of section (28); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼ N. E. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (29); S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (30); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, of section (31); N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, of section (32); N. W. ¼ of N. E. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, of section (33); N. E. ¼ of N. W. ¼ lot (1), N. W. ¼ of N. W. ¼ of section (34) town (36) north, range (1) east.

S. E. ¼ of S. W. ¼ of section (10); S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼ of section (14); S. E. ¼ of N. W. ¼ of section (15); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. *R.* ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, E. ½ of S. E. ¼, N. W. ¼ of S. E. ¼ of section (22); S. W. ¼ of N. E. ¼ of section (23); S. W. ¼ of S. E. ¼, S. E. ¼ of S. W. ¼ of section (26); N. E. ¼ of N. W. ¼, N. W. ¼ of N. E. ¼ of section (27), N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (34) town (37) north, range (1) east.

S. W. ¼ of S. E. ¼ lot (1) and (2) of section (20); N. W. ¼
198 of N. W. ¼, lot (4), S. E. ¼ of N. W. ¼, lot (3) N. E. ¼ of S. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of S. W. ¼ of section (26); N. E. ¼ of N. E. ¼, lot (1), N. W. ¼ of N. E. ¼, lot (2), S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (27) N. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (29) S. E. ¼ of N. E. ¼ of section (30) N. E. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, of section (34) town (38) north range (1) east.

N. E. ¼ of S. W. ¼, N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (2); S. E. ¼ of S. W. ¼ of section (4); N. ½ of N. W. ¼ of section (6); S. W. ¼ of N. E. ¼, W. ½ of N. W. ¼, W. ½ of S. W. ¼ of section (31); town (34) north range (1) west.

N. E. ¼ of of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (1); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (2); N. E. ¼ of S. E. ¼,

S. E. ¼ of S. E. ¼ of section (12); N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, W. ½ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, E. ½ of S. W. ¼, W. ½ of S. W. ¼, of section (13) S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼ of section (21); S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. W.—¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, of section (22); N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼,
199 S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (23) N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, of section (24); W. ½ of N. E. ¼, N. W. ¼ of S. E. ¼ of section (25)—N. E. ¼ of N. E. ¼, S. ½ of S. E. ¼, S. ½ of S. W. ¼ of section (26); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼, of S. W. ¼ of section (36); town (35) north range (1) west.

S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (13); N. W. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼, of section (14); N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼ of section (15); N. W. ¼ of N. E. ¼, lot (1); S. W. ¼ of N. E. ¼ of section (19), S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (21); N. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, of section (24); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼, of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼ of section (35); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼. S. W. ¼ of S. W. ¼, of section (36); town (36) north, range (1) west.

Lot on river described as follows:—A piece of land bounded
200 as follows, commencing at a stake at the intersection of the north line on the S. E. ¼ of N. E. ¼ of sec. (7) town (37) north range (1) west, and the road running from Cheboygan to Mullet lake, thence easterly along said line to Cheboygan river, thence southerly along said river 37 37/100 rods to a cedar stake thence along said road to the place of beginning. Also a piece of land commencing at the S. E. corner of the S. E. ¼ of the S. E. ¼ of section (7) township (37) north range (1) west, thence west four rods thence south and in a line parallel to and running 4 rods from Cheboygan river 16 rods thence at right angles 4 rods to the river, thence along the river to the place of beginning. In section (7) town (37) north, range (1) west.

N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, of section (35) town (38) north, range (1) west.

N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼ of section (25) town (33) north range (2) west.

S. W. ¼ of S. W. ¼ of section (2); S. E. ¼ of S. E. ¼ of section (3); S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, lot (3); of section (8) S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ of section (11); S. W. ¼ of S. E. ¼ of section (27); town (35) north range (2) west.

Lot (1) lot (2) lot (4) N. W. ¼ of S. W. ¼ of section (24) town (36) north, range (2) west.

N. W. ¼ of S. W. ¼ of section (28); N. E. ¼ of S. E. ¼ S. E. ¼ of S. W. ¼, of section (29) town (35) north, range (3) west.

S. W. ¼ of S. E. ¼, lot (3) S. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ of section (4), N. W. ¼ of N. W. ¼ lot (1) of
201 section (9); N. E. ¼ of N. E. ¼, lot (3) N. W. ¼ of N. E. ¼, lot (4) S. E. ¼ of N. E. ¼, lot (5) of section (14); S. W. ¼ of S. W. ¼ of section (18) town (36) north range (3) west.

S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼ lot (3) of section (4); S. E. ¼ of S. E. ¼, lot (1) of section (22); N. E. ¼ of N. E. ¼ of section (23); town (37) north, range (3) west.

N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼ of section (1); N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, of section (10) S. E. ¼ of S. E. ¼ of section (11) town (38) north, range (3) west.

S. E. ¼ of N. E. ¼, lot (2), N. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, of section (35); S. W. ¼ of N. W. ¼, lot (1) S. E. ¼ of S. E. ¼ lot (4), S. W. ¼ of S. E. ¼ lot (3), N. E. ¼ of S. W. ¼, lot (2), N. W. ¼ of S. W. ¼ of section (36), town (39) north range (3) west.

E. fr'l ½ of N. E. ¼, W. fr'l ½ of N. E. ¼, W. fr'l ½ of N. W. ¼, E. ½ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼ of section (1); E. fr'l ½ of N. E. ¼, N. E. ¼ of S. E. ¼ of section (2); N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, of section (3) S. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ of section (8); N. W. ¼ of S. W. ¼, of section (9) N. W. ¼ of N. W. ¼ of section (12); town (33) north, range (2) east.

N. fr'l ½ of N. E. ¼, of section (1); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼ S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (2); N. E. ¼ of
202 N. E. ¼, S. E. ¼ of N. E. ¼ N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (3); N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼, of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (4); S. E. ¼ of N. E. ¼, N. W. ¼ of S. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, of section (5) N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. fr'l ½ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. W. ¼, of section (6); N. E. ¼ of N. E. ¼ N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼, of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, of section (8) N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of

S. W. ¼ of section (9) N. E. ¼ of N. E. ¼, W. ½ of N. W. ¼ N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, of section (10); N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, of section (11); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (13); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼ N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼ of section (14); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, of section (15); S. E. ¼ of S. E. ¼ of section (16); S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. W. fr'l ¼ of section (18); N. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼,
203 S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. W. ¼ of S. W. fr'l ¼ of section (19); N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, W. ½ of S. E. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼ of section (20); N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (21); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼, of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, of section (22); N. E. ¼ of N. E. ¼, N. W. ¼, of N. E. —, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (23); S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼ of section (24); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼ of section (25); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼ N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼,
204 of section (26); S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. W. ¼ of N. W. ¼, S. ½ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (27); N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (28); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼ N. E. ¼ of S. E. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (29); N. E. ¼

of N. E. ¼, N. W. ¼ of N. E. ¼; S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. W. ¼, N. fr'l ½ of S. W. ¼ of section (30); N. E. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. ½ of S. E. ¼, S. W. ¼ of S. E. ¼, S. ½ of N. E. ¼ of section (32); S. W. ¼ of N. W. ¼ of section (33); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, S. E. ¼, of S. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (35); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. ½ of N. W. ¼, N. ½ of S. W. ¼ of section (36); town (34) north, range (2) east.

E. ½ of N. E. ¼, N. W. ¼ of N. E. ¼, lot (4), S. E. ¼ of N. E. ¼, S. E. ¼ of S. E. ¼, of section (5); S. W. ¼ of S. W. ¼, lot (3) of section (7); N. E. ¼ of N. E. ¼ of section (8); S. E. ¼ of N. W. ¼ of section (9); S. E. ¼ of S. E. ¼ S. W. ¼ of S. E. ¼ of section (17); S. E. ¼ of

205 N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼ of section (18); W. ½ of N. E. ¼ of section (19); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼ of section (20); N. E. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼ of section (22); S. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (24); N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, of section (25); S. E. ¼ of N. E. ¼ N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (26); N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, S. E. ¼ of S. E. ¼ of section (33); S. E. ¼ of S. E. ¼, N. E. ¼ of S. E. ¼, of section (34); S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, N. W. ¼ of S. E. ¼, of section (35); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (36); town (35) north range (2) east.

S. W. ¼ of S. W. ¼ of section (3); S. E. ¼ of S. E. ¼, S. W. ¼ of S. W. ¼ of section (5); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼ of section (9); N. W. ¼ of N. W. ¼ of section (10); S. W. ¼ of S. E. ¼, lot 4, of section (13); N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (29); S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ lot (3) of section (30) N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, lot (2), N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ lot (4), S. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, lot (5) of section (32); town (36) north, range (2) east.

206 N. W. ¼ of S. W. ¼ of section (21); N. E. ¼ of S. E. ¼ S. E. ¼ of S. E. ¼ of section (23); S. W. ¼ of N. W. ¼ lot (3) N. E. ¼ of N. W. ¼, lot (2) S. W. ¼ of N. W. ¼ lot (3), N. W. ¼ of S. W. ¼ of section (24); S. W. ¼ of N. W. ¼ of section (28); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. W. ¼ of S. E. ¼, N. E. ¼ of S.

W. ¼, of section (29); N. W. ¼ of N. W. ¼ of section (31); S. E. ¼ of N. E. ¼ of section (33); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼ of section (34); town (36) north, range (2) east.

S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (32) town (38) north, range (2) east.

E. fr'l half of N. E. ¼, W. fr'l ½ of N. E. ¼, E. fr'l ½ of N. W. ¼, W. fr'l ½ of N. W. ¼, N. W. fr'l ¼ of S. W. ¼, N. E. ¼ of S. W. ¼ of section (6); town (33) north range (3) east.

N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (18); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (31); W. ½ of S. W. ¼ of section (32); town (34) north, range (3) east.

S. E. ¼ of S. W. ¼ lot (2) of section (19); town (36) north range (3) east.

S. E. ¼ of S. W. ¼ of section (8); S. W. ¼ of S. W. ¼, S. E. ¼
207 of S. W. ¼ of section (9); N. W. ¼ of S. W. ¼ of section (17); town (33) north, range (7) east.

S. W. ¼ of N. E. ¼ of section (24); N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, of section (34); N. W. ¼ of S. W. ¼ S. E. ¼ of S. W. ¼, of section (35); N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of S. W. ¼ of section (36); town (30) north range (3) east.

S. E. ¼ of S. E. ¼ of section (10); S. E. ¼ of N. W. ¼ N. E. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (15); N. E. ¼ of S. E. ¼ of section (17); N. E. ¼ of S. E. ¼ of section (21), S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼ of section (22); N. E. ¼ of N. W. ¼ S. E. ¼ of N. W. ¼ of section (23) town (31) north range (4) east.

N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (26); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (34) town (32) north, range (4) east.

N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼ of section (1); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼ of section (2); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, N. E ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (5) N. E. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (6); town (31) north range (5) east.

S. W. ¼ of S. E. ¼ of section (13); N. W. ¼ of S. E. ¼ of section (24); N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼,
208 S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (30); N. W.

¼ of N. E. ¼, S. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ of section (31); S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼ of section (32); N. E. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼ of section (33) *p* N. E. ¼ of S. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, of section (35); S. W. ¼ of S. W. ¼ of section (36); town (32) north, range (5) east.

S. W. ¼ of S. E. ¼ of section (20); N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼, of section (22); N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼, of section (23) S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, of section (25); S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼ of section (26); N. E. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ of section (27); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼ of section (29); N. E. ¼ of N. E. ¼, N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼ of section (34); N. W. ¼ of N. E. ¼, S. W. ¼ of N. W. ¼, N. E. ¼ of N. W. ¼, N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼ of section (35) town (32) north, range (6) east.

N. W. ¼ of S. W. ¼ of section (1); N. E. ¼ of N. E. ¼ N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼ S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (2); N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼ of section (12); N. E. ¼ of N. E. ¼ of section (24) town (31) north, range (1) west.

209 N. E. ¼ of N. E. ¼ of section (17); N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼ of section (24); S. E. ¼ of S. E. ¼ of section (26); N. E. ¼ of S. E. ¼, N. W. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼ of section (35) town (32) north, range (1) west.

S. E. ¼ of N. E. ¼ of section (1); N. W. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼, S. W. ¼ of S. W. ¼ of section (3); town (32) north, range (2) west.

210 *Demurrer of Auditor General.*

Afterwards, to-wit, and now on this day, that is to say, on March 7th, 1902, comes the auditor general of the State of Michigan, by his said solicitor and files in said court a demurrer to complainant's amended bill of complaint, which demurrer is in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERROTT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen T. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, and Their Successors in Office, Defendants. } No. 37.

The demurrer of Perry F. Powers, auditor general of the State of Michigan, successor in office of Roscoe D. Dix, one of the above named defendants, to the amended bill of complaint of the above named complainant.

This defendant by protestation not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained, to be true in such manner and form as the same are
211 therein set forth and alleged, doth demur to the said amended bill, and for causes of demurrer showeth:

1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said amended bill or of any such matters.

2. The complainant is not entitled upon said bill to the relief he prays for because he had a plain and adequate remedy at law.

3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000) dollars exclusive of interest and costs.

4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

5. It appears by the said amended bill of complaint that this suit is in effect a suit against the State of Michigan.

6. An amended bill of complaint will not lie against the successor in office of Roscoe D. Dix, auditor general of the State of Michigan.

Wherefore this defendant demurs to the said amended bill and he prays the judgment of this honorable court whether or not he shall be compelled to make any further or other answer to the said amended bill and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

PERRY F. POWERS,
Auditor General.

HORACE M. OREN,
Attorney General, Solicitor for Auditor General.

212 I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

JOHN H. GOFF,
Of Counsel for Auditor General.

STATE OF MICHIGAN, } ss:
County of Ingham, }

Perry F. Powers being duly sworn says that he is auditor general of the State of Michigan, successor in office of Roscoe D. Dix, one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

PERRY F. POWERS.

Subscribed & sworn to before me this 28th day of February A. D. 1902.

GEO. W. FREEMAN,
Notary Public, Ingham County, Michigan.

213 *Demurrer of Treasurer Cheboygan County.*

Afterwards, to-wit, and now on this day, that is to say, on March 7th, 1902, comes the treasurer of Cheboygan county, by his said solicitor, and files in said court, his demurrer to complainant's amended bill of complaint, which demurrer is in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen T. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, and Their Successors in Office, Defendants. } No. 37.

The demurrer of Samuel J. Smith, county treasurer of Cheboygan county, successor in office to Thomas D. James, one of the defendants above named.

This defendant by protestation not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained,

to be true in such manner and form as the same are therein
214 set forth and alleged, doth demur to the said amended bill, and for causes of demurrer showeth :—

1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said amended bill or of any such matters.

2. The complainant is not entitled upon said bill to the relief he prays for because he had a plain and adequate remedy at law.

3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000) dollars exclusive of interest and costs.

4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

5. It appears by the said amended bill of complaint that this suit is in effect a suit against the State of Michigan.

6. This defendant is improperly joined as a defendant in this cause.

Wherefore this defendant demurs to the said amended bill, and he prays the judgment of this honorable court whether or not he shall be compelled to make any further or other answer to the said amended bill and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

SAMUEL J. SMITH,
County Treasurer of Cheboygan County.

GEO. E. FROST,
Prosecuting Attorney.
HORACE M. OREN,
Attorney General, Solicitor for County Treasurer.

215 I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

JOHN H. GOFF,
Of Counsel for County Treasurer.

STATE OF MICHIGAN, } ss :
County of Cheboygan, }

Samuel J. Smith, being duly sworn says that he is county treasurer of Cheboygan county, successor in office to Thomas D. James, one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

SAMUEL J. SMITH.

Subscribed and sworn to before me this 3rd day of March, A. D. 1902.

SAMUEL G. HOSACK,
[SEAL.] *Notary Public, Cheboygan County, Michigan.*

216 *Demurrer of Treasurer of Otsego County.*

Afterwards, to-wit, and now on this day, that is to say, on March 7th, 1902 comes the treasurer of Otsego county, by his said solicitor and files in said court his demurrer to complainant's amended bill of complaint, which demurrer is in words and figures following, to-wit:—

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen T. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, and Their Successors in Office, Defendants. } No. 37.

The demurrer of Allen T. Martindale, county treasurer of Otsego county, one of the defendants above named, to the amended bill of complaint of the above named complainant.

This defendant by protestation not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained, to be true in such manner and form as the same are therein set forth and alleged, doth demur to the said amended
217 bill, and for causes of demurrer, showeth:—

1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said amended bill or of any such matters.

2. The complainant is not entitled upon said bill to the relief he prays for because he had a plain and adequate remedy at law.

3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000.) dollars exclusive of interest and costs.

4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

5. It appears by the said amended bill of complaint that this suit is in effect a suit against the State of Michigan.

6. This defendant is improperly joined as a defendant in this cause.

Wherefore this defendant demurs to the said amended bill, and he prays the judgment of this honorable court whether or not he shall be compelled to make any further or other answer to the said amended bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

ALLEN T. MARTINDALE,
County Treasurer of Otsego County.

218 ALBERT M. HILTON,
Prosecuting Attorney.
HORACE M. OREN,
Attorney General, Solicitor for County Treasurer.

I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

J. H. GOFF,
Of Counsel for County Treasurer.

STATE OF MICHIGAN, } ss:
County of Otsego, }

Allen T. Martindale, being duly sworn says that he is county treasurer of Otsego county, one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

ALLEN T. MARTINDALE.

Subscribed & sworn to before me this 26th day of February A. D. 1902.

SANFORD W. BUCK,
Notary Public, Otsego County, Michigan.

219 *Demurrer of Treasurer of Presque Isle County.*

Afterwards, to-wit, and now on this day, that is to say, on March 7th, 1902 comes the treasurer of Presque Isle county by his said solicitor and files in said court his demurrer to complainant's amended bill of complaint, which demurrer is in words and figures following, to-wit:—

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen T. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, and Their Successors in Office, Defendants. } No. 37.

The demurrer of A. A. Bruder, county treasurer of Presque Isle county, successor in office to Louis Bruder, one of the defendants above named, to the amended bill of complaint of the above named complainant.

This defendant by protestation not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained, to be true in such manner and form as the same
220 are therein set forth and alleged, doth demur to the said amended bill, and for causes of demurrer showeth: —

1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said amended bill or of any such matters.

2. The complainant is not entitled upon said bill to the relief he prays for because he had a plain and adequate remedy at law.

3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000) dollars exclusive of interest and costs.

4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

5. It appears by the said amended bill of complaint that this suit is in effect a suit against the State of Michigan.

6. This defendant is improperly joined as a defendant in this cause.

Wherefore this defendant demurs to the said amended bill, and he prays the judgment of this honorable court whether or not he shall be compelled to make any further or other answer to the said

amended bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

A. A. BRUDER,
County Treasurer of Presque Isle County.

EDWIN G. REED,
Prosecuting Attorney.
HORACE M. OREN,
Attorney General, Solicitor for County Treasurer.

221 I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

J. H. GOFF,
Of Counsel for County Treasurer.

STATE OF MICHIGAN, }
County of Presque Isle, } *ss:*

A. A. Bruder, being duly sworn says that he is county treasurer of Presque Isle county, successor in office to Louis Bruder, one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

A. A. BRUDER.

Subscribed & sworn to before me this 26th day of February, A. D. 1902.

FRED F. PLATZ,
Notary Public, Presque Isle County, Michigan.

222 *Demurrer of Treasurer of Alpena County.*

Afterwards, to-wit, and now on this day, that is to say, on March 7th, 1902, comes the treasurer of Alpena county by his said solicitor and files in said court his demurrer to complainant's amended bill of complaint, which demurrer is in words and figures following, to-wit:—

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen T. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, and Their Successors in Office, Defendants. } No. 37.

The demurrer of Christian A. Oppenborn, county treasurer of Alpena county, successor in office to James H. Kerr, one of the defendants above named, to the amended bill of complaint of the above named complainant.

This defendant by protestation not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are
223 therein set forth and alleged, doth demur to the said amended bill, and for causes of demurrer showeth:—

1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a court of equity to any discovery from this defendant or to any relief against him as to the matters contained in the said amended bill or of any such matters.

2. The complainant is not entitled upon said bill to the relief he prays for because he had a plain and adequate remedy at law.

3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000) dollars exclusive of interest and costs.

4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

5. It appears by the said amended bill of complaint that this suit is in effect a suit against the State of Michigan.

6. This defendant is improperly joined as a defendant in this cause.

Wherefore this defendant demurs to the said amended bill, and he prays the judgment of this honorable court whether or not he shall be compelled to make any further or other answer to the said amended

bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

CHRISTIAN A. OPPENBORN,
County Treasurer of Alpena County.

JOSEPH CAVANGH,
Prosecuting Attorney.
HORACE M. OREN,
Attorney General, Solicitor for County Treasurer.

224 I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

J. H. GOFF,
Of Counsel for County Treasurer.

STATE OF MICHIGAN, } ss:
County of Alpena, }

Christian A. Opperborn, being duly sworn says that he is county treasurer of Alpena county, successor in office to James H. Kerr, one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

CHRISTIAN A. OPPERBORN.

Subscribed & sworn to before me this 26th day of February A. D. 1902.

R. J. CRABLE,
Notary Public, Alpena County, Michigan.

225 *Demurrer of Treas. Montmorency County.*

Afterwards, to-wit, and now on this day, that is to say, on March 26th, 1902, comes the treasurer of Montmorency county and files in said court his demurrer to complainant's amended bill of complaint, which demurrer is in words and figures following, to-wit:

UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
vs.
ROSCOE D. DIX, Auditor General; JAMES H. KERR, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen T. Martindale, County Treasurer Otsego County; Louis Bruder, County Treasurer Presque Isle County, and Their Successors in Office, Defendants. } No. 37.

The demurrer of Willard T. Warren, county treasurer of Montmorency county, successor in office to Herman Lunden, one of the defendants above named, to the amended bill of complaint of the above named complainant.

This defendant by protestation not confessing or acknowledging all or any of the matters or things in the said bill of com-
226 plaint contained, to be true in such manner and form as the same are therein set forth and alleged, doth demur to the said amended bill, and for causes of demurrer showeth:—

1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said amended bill or of any such matters.

2. The complainant is not entitled upon said bill to the relief he prays for because he had a plain and adequate remedy at law.

3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000) dollars exclusive of interests and costs.

4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

5. It appears by the said amended bill of complaint that this suit is in effect a suit against the State of Michigan.

6. This defendant is improperly joined as a defendant in this cause.

Wherefore, this defendant demurs to the said amended bill, and he prays the judgment of this honorable court whether or not he shall be compelled to make any further or other answer to the said amended

bill, and he hereby prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

WILLARD T. WARREN,
County Treasurer of Montmorency County.

—— ——,
Prosecuting Attorney.
227 HORACE M. OREN,
Attorney General, Solicitor for County Treasurer.

I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

J. H. GOFF,
Of Counsel for County Treasurer.

STATE OF MICHIGAN, } ss:
County of Montmorency, }

Willard T. Warren, being duly sworn, says that he is county treasurer of Montmorency county, successor in office to Herman Lunden, one of the above named defendants, and that the foregoing demurrer is not interposed for delay.

WILLARD T. WARREN.

Subscribed & sworn to before me this 15th day of March, A. D. 1902.

CHAS. B. DRAKE,
Notary Public, —— County, Michigan.

228 *Order Sustaining Demurrers and Dismissing Bill and Amended Bill.*

Afterwards, to-wit, and now on this day, that is to say, on October 9th, 1902, an order sustaining the demurrer and dismissing the bill of complaint was granted by the court, a memorandum of which was duly entered by the clerk in the journal of the proceedings of said court, which memorandum is in words and figures following, to-wit:

At a session of the circuit court of the United States for the eastern district of Michigan, northern division, continued and held pursuant to adjournment, at the district court room, in the city of Detroit, on Thursday the ninth day of October, in the year one thousand nine hundred and two.

Present: The Honorable Henry H. Swan, district judge.

MERRITT CHANDLER
v.
ROSCOE D. DIX, Auditor General of the State of Michigan; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County; Louis Bruder, County Treasurer of Presque Isle County; James E. Holcombe, Cheboygan Leather Company, Pfister and Vogel Leather Company, Hugh McKinnin, Herman Georgie, Charles Leduc, Frank Leduc, Louis St. Armour, William Hakleberg, John McGinn, David Pelten, William Reid, Charles Ballant, Francis E. Partridge, John Cain, James Fenlow, David Bowen, Mathias King, Joseph Villburn, Everett F. Merrill, Charles A. Begle, Eliza Rivers, Grace Harbor Lumber Company, Herman Besser, Monroe Klock, William R. Kendrick, Lewis Cornwell, John D. Knause & Company, Salling, Hanson & Company, Hanson & Barker, Ramson Hanson, William McPherson, Jr., Frederick D. Larke, Charles H. Osgoode, John P. Hyde, John W. Harvey, A. N. Allen, Newell A. Ayers, Rosena Schmidt, J. W. Karwick, Warren Shoak, George Crawford, Hugh McKenzie, John S. Sanborn, D. MacNeil, George J. Carr, Charles J. Wallich, C. H. Engle, S. W. Kramer, George Murner, F. A. Baldwin, and F. A. Kramer.

No. 37. In Equity.

229

This cause having been heretofore heard upon a general and several special demurrers of the defendants to the complainant's bill and amended bill of complaint, and the same having been duly argued and submitted, after due consideration thereof it is by the court now here ordered, adjudged and decreed that the general demurrer and that grounded upon the exemption of the State from liability to suit are sustained and the bill and amended bill are dismissed, with costs to be taxed in favor of the defendants.

230 *Opinion.*

Afterwards, to-wit, and now on this day, that is to say on October 9th, 1902 an opinion was duly rendered in said cause which opinion is in words and figures following, to-wit:

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER
vs.
ROSCOE D. DIX, Auditor General, ET AL. } No. 37.

On demurrer to amended bill.

Messrs. McKay & McKay, solicitors for complainant.
George W. Weadock, Esq., of counsel.
Hon. Horace M. Oren, attorney general, for defendants.
John H. Goff, Esq., of counsel.

SWAN, *J.*:

This bill was filed September 19th 1900 against the auditor general of the State of Michigan and the treasurers of the counties of Cheboygan, Presque Isle, Alpena, Otsego and Montmorency, and several defendants citizens of Michigan who claimed interests in the lands described in the bill. Among other things the bill attacked the validity under the Federal Constitution of the laws of the State of Mich-
231 igan under which the lands of complainant had been assessed and sold for taxes; prayed that sales by virtue of said law should be set aside and canceled; that all conveyances in pursuance of said law and the sales thereunder may be declared null and void and ordered to be canceled; that complainant's title in the land may be quieted and he declared owner in fee simple thereof and entitled to possession, and the defendants be required to yield and deliver up possession thereof; that the official defendants may be enjoined from permitting any waste upon the land; from assessing or levying any taxes thereon; from selling, or attempting to sell, the same for taxes, or taking other or further proceedings under said laws in regard thereto.

Since the bill was filed, September 19th, 1900. Roscoe D. Dix, a former auditor general of the State of Michigan, has retired from office yielding the place to his elected successor who is discharging the duties of the position. A general and several special demurrers were filed to the bill, and the questions arising upon them have been ably argued by counsel for respective parties.

Without passing upon the validity of all the demurrers or the many questions which have been argued, or upon the alleged unconstitutionality of the tax legislation of the State of Michigan which is assailed in the bill, and after carefully considering the facts and the law, it seems clear that the complainant's case is ruled by the decisions in the cases of

Warner Valley Stock Co., *vs.* Smith, 165, U. S., 28.
Smith *vs.* Reeves, 178 U. S. 436.

Under the first of these cases it is held that a bill in equity
232 against a public officer abates upon his retirement from the office and cannot be amended by making his successor in the office a defendant because he had no part in the matter complained of and is not in privity with his predecessor. In the case at bar the principal relief sought by the bill is against the auditor general, and that asked against the treasurers of the several counties is incidental merely and shows no ground of relief against them alone, and, therefore, cannot be maintained against them.

In Smith *vs.* Reeves, *supra*, a suit not unlike the present was held to be excluded from the judicial power of the United States even when it was one arising under the Constitution and laws of the United States, because though in form against an officer of the State, it was in fact against the State itself, which is the case here.

For these reasons the general demurrer, and that grounded upon the exemption of the State from liability to suit, are sustained, and the bill is dismissed with costs. to be taxed.

HENRY H. SWAN,
District Judge.

Dated, October 9th, 1902.

233 *Assignments of Error.*

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General of the State of Michigan, *et al.*, Defendants. } No. 37.

And now, on the 15th day of December, 1902, came the said complainant, by McKay & McKay, his solicitors, and says that the decree in said cause is erroneous and against the just rights of the said complainant and plaintiff in error, for the following reasons:

1. That the United States circuit court for the eastern district of Michigan, northern division, in equity, erred in sustaining the demurrer interposed by the defendants and defendants in error to the original bill of complaint filed in said cause.

2. That said circuit court erred in dismissing the said bill of complaint of complainant and plaintiff in error.

3. That said circuit court erred in not entering a decree for said complainant and plaintiff in error upon the pleadings in said cause.

Wherefore the said complainant and plaintiff in error prays that the said decree be reversed and that the said court may be directed to enter a decree in accord with the prayer of said bill of complaint.

234

McKAY & McKAY,
Solicitors for Complainant and Plaintiff in Error.

GEO. W. WEADOCK, *Of Counsel.*

Filed in clerk's office, Feb. 14, 1903.
WALTER S. HARSHA, *Clerk.*

Petition for Appeal and Order Allowing Same.

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER, Complainant,
v.
ROSCOE D. DIX, Auditor General of the State of Michigan, *et al.*, Defendants. } No. 37.

The above named complainant, conceiving himself aggrieved by the decree made and entered on the 9th day of October, in the above entitled cause, does hereby appeal from said order and de-
235 cree to the Supreme Court of the United States, for the reasons specified in the assignment of errors, which is filed herewith, and he prays that this appeal be allowed, and that a transcript of the record, proceedings, and papers upon which said order was made, duly authenticated, may be sent to the Supreme Court of the United States.

McKAY & McKAY,
Solicitors for Complainant.

Dated February 14, 1903.

The appeal above prayed is hereby allowed, and the bond on appeal is fixed at the sum of two hundred and fifty dollars.

Dated, Bay City, Mich., Feb. 14, 1903.

HENRY H. SWAN,
U. S. District Judge.

Filed in clerk's office Feb. 14, 1903.
WALTER S. HARSHA, *Clerk.*

236 *Bond on Appeal.*

Know all men by these presents, that we, Merritt Chandler, of Onaway, Michigan, as principal, and Edward J. James and John Young, of the same place, as sureties, are held and firmly bound unto Roscoe D. Dix, auditor general of the State of Michigan; James H. Kerr, county treasurer of Alpena county; Thomas D. James, county treasurer of Cheboygan county; Herman Lunden, county treasurer of Montmorency county; Allen S. Martindale, county treasurer of Otsego county; and Louis Bruder, county treasurer of Presque Isle county, in the full and just sum of two hundred and fifty dollars, to be paid to the said Roscoe D. Dix, auditor general of the State of Michigan, *et al.*, their certain attorney, executors, administrators, or assigns: to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 15th day of December, in the year of our Lord one thousand nine hundred and two.

Whereas, lately at a session of the circuit court of the United States for the eastern district of Michigan, northern division, in a suit depending in said court, between Merritt Chandler, complainant, and Roscoe D. Dix, auditor general of the State of Michigan, James H. Kerr, county treasurer of Alpena county; Thomas D. James, county treasurer of Cheboygan county; Herman Lunden, county treasurer of Montmorency county; Allen S. Martindale, county treasurer of Otsego county; and Louis Bruder, county treasurer of Presque Isle county; a decree was rendered against the said Merritt Chandler, appellant, and the said Merritt

237 Chandler, appellant, having obtained a claim of appeal and filed a copy thereof in the clerk's office of the said court to reverse the decree in the aforesaid suit, and a citation directed to the said Roscoe D. Dix, auditor general of the State of Michigan, *et al.* appellees, citing and admonishing them to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date thereof.

Now, the condition of the above obligation is such, that if the said Merritt Chandler shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

MERRITT CHANDLER. [SEAL.]
EDWARD J. JAMES. [SEAL.]
JOHN YOUNG. [SEAL.]

Sealed and delivered in presence of—
W. B. GRIGG.
W. A. STOVEL.

Approved by
HENRY H. SWAN,
U. S. District Judge.

238 STATE OF MICHIGAN, } ss:
County of Presque Isle, }

Edward J. James and John Young, of Onaway in said county, being duly and severally sworn, each for himself says that he is one of the sureties named in and entering into the within and foregoing bond, and that he is worth the sum of five hundred ($500.00) dollars, in unincumbered property not exempt from execution under the laws of this State after payment of all just debts, claims and liabilities.

EDWARD J. JAMES.
JOHN YOUNG.

Subscribed and sworn to before me this 26th day of February, A. D. 1903.

[SEAL.] THOS. E. SHAW,
Notary Public in and for Presque Isle County, Michigan.

Filed in clerk's office February 28, 1903.
WALTER S. HARSHA, *Clerk.*

239 *Order Extending Time to Make Return.*

At a session of the circuit court of the United States for the eastern district of Michigan, northern division, continued and held pursuant to adjournment, at the district court room, in the city of Bay City, on Saturday the fourteenth day of March, in the year one thousand nine hundred and three.

Present: The Honorable Henry H. Swan, district judge.

MERRITT CHANDLER
v.
ROSCOE D. DIX, Auditor General of the State of Michigan; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County. } In Equity. No. 35.

Upon application of the clerk it is by the court now here ordered, that the time to make return to claim of appeal in said cause be, and the same is hereby extended until March 28th.

HENRY H. SWAN,
U. S. District Judge.

240 *Order Extending Time to Make Return.*

At a session of the circuit court of the United States for the eastern district of Michigan, northern division, continued and held pursuant to adjournment, at the district court room, in the city of Bay City, on Saturday the twenty-eighth day of March, in the year one thousand nine hundred and three.

Present: The Honorable Henry H. Swan, district judge.

MERRITT CHANDLER v. ROSCOE D. DIX, Auditor General of the State of Michigan; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County.	In Equity. No. 35.

Upon application of the clerk it is by the court now here ordered, that the time to make return to claim of appeal in said cause be, and the same is hereby extended until April 7th.

HENRY H. SWAN,
U. S. District Judge.

241 *Order Extending Time to Make Return.*

At a session of the circuit court of the United States for the eastern district of Michigan, northern division, continued and held pursuant to adjournment, at the district court room, in the city of Bay City, on Tuesday the seventh day of April, in the year one thousand nine hundred and three.

Present: The Honorable Henry H. Swan, district judge.

MERRITT CHANDLER
v.
ROSCOE D. DIX, Auditor General of the State of Michigan; JAMES H. KERR, County Treasurer of Alpena County; THOMAS D. JAMES, County Treasurer of Cheboygan County; HERMAN LUNDEN, County Treasurer of Montmorency County; ALLEN S. MARTINDALE, County Treasurer of Otsego County, and LOUIS BRUDER, County Treasurer of Presque Isle County. } In Equity. No. 35.

Upon application of the clerk it is by the court now here ordered, that the time to make return to claim of appeal in said cause be, and the same is hereby extended until April 13th.

HENRY H. SWAN,
U. S. District Judge.

242 UNITED STATES OF AMERICA, *ss:*

To Roscoe D. Dix, auditor general of the State of Michigan; James H. Kerr, county treasurer of Alpena county; Thomas D. James, county treasurer of Cheboygan county; Herman Lunden, county treasurer of Montmorency county; Allen S. Martindale, county treasurer of Otsego county, and Louis Bruder, county treasurer of Presque Isle county, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a claim of appeal, filed in the clerk's office of the circuit court of the United States, for the eastern district of Michigan, northern division, wherein Merritt Chandler, is appellant and you are appellees, to show cause, if any there be, why the decree rendered against the said appellant as in the said claim of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Melville W. Fuller, Chief Justice of the United States, this 14th day of February, in the year of our Lord one thousand nine hundred and three.

HENRY H. SWAN,
U. S. District Judge.

243 LANSING, MICH., *Mar.* 1, 1903.

Due and personal service of the within and foregoing citation is hereby admitted and due and personal service of the same is hereby waived.

CHAS. A. BLAIR,
Attorney General.

[Endorsed:] Filed in clerk's office March 5 1903 Walter S. Harsha clerk.

244 UNITED STATES OF AMERICA:

In the Circuit Court of the United States for the Eastern District of Michigan, Northern Division. In Equity.

MERRITT CHANDLER
v.
ROSCOE D. DIX, Auditor General of the State of Michigan, *et al.* } No. 35.

EASTERN DISTRICT OF MICHIGAN, *ss:*

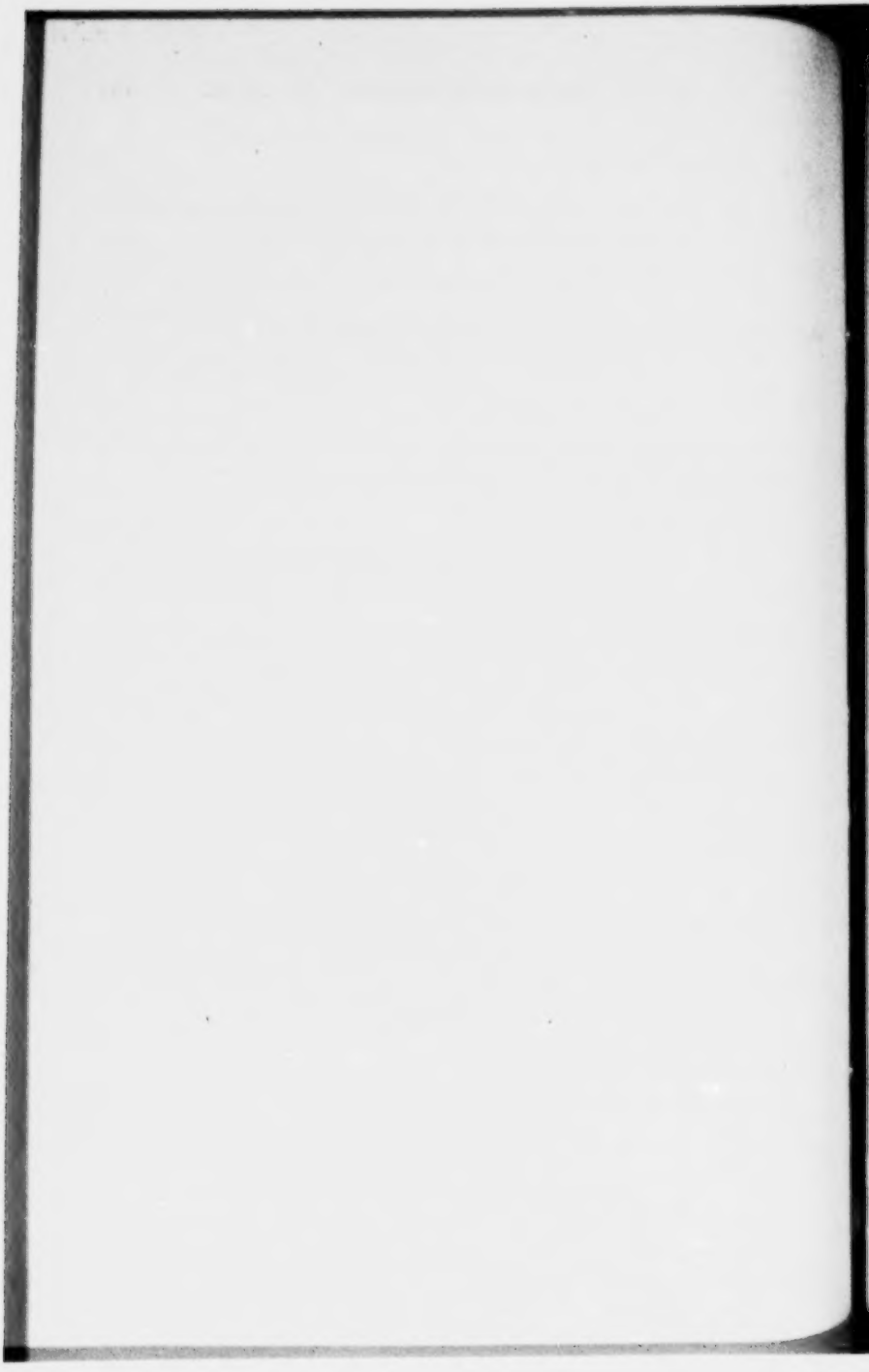
I, Walter S. Harsha, clerk of the circuit court of the United States for the eastern district of Michigan, do hereby certify and return to the claim of appeal of the above named complainant; that the above and foregoing is a true copy of the record and proceedings in said cause as the same appear on file and of record in my office; that I have compared the same with the originals on file, and it is a true and correct transcript therefrom and of the whole of said originals.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Bay City, in said district, this 7th day of April, in the year of our Lord one thousand nine hundred and three, and of the Independence of the United States of America the one hundred and twenty-seventh.

[Seal of the Circuit Court, Eastern District of Michigan.]

WALTER S. HARSHA, *Clerk,*
By JENNIE WRIGHT JONES, *Dep. Clerk.*

Endorsed on cover: File No. 18,895. E. Michigan C. C. U. S. Term No. 261. Merritt Chandler, appellant, *vs.* Roscoe D. Dix, auditor general of the State of Michigan; James H. Kerr, county treasurer of Alpena county, *et al.* Filed April 16, 1903. File No. 18,895.



FILE COPY.

Supreme Court of the United States.

OCTOBER TERM, 1903.

Office Supreme Court U. S.
FILED
APR 22 1904
JAMES H. McKENNEY, Clerk.

MERRITT CHANDLER,
Appellant.

vs.

ROSCOE D. DIX, Auditor General of the State of Michigan;
LOUIS BRUDER, County Treasurer of Presque Isle County, Michigan;
JAMES H. KERR, County Treasurer of Alpena County, Michigan;
THOMAS D. JAMES, County Treasurer of Cheboygan County, Michigan;
HERMAN LUNDEN, County Treasurer of Montmorency County, Michigan, and
ALLEN S. MARTINDALE, County Treasurer of Otsego County, Michigan,
Appellees.

No. 261

Appeal from the Circuit Court of the United States for the Eastern District of Michigan, Northern Division, In Chancery.

BRIEF FOR APPELLANT.

JOHN A. McKAY,
Solicitor and of Counsel for Merritt Chandler, Appellant.

GEORGE W. WEADOCK,
Of Counsel for Merritt Chandler, Appellant.

SEEMANN & PETERS, PRINTERS AND BINDERS, SAGINAW, MICH.

Supreme Court of the United States.

OCTOBER TERM, 1903.

MERRITT CHANDLER,
Appellant.
vs.
ROSCOE D. DIX, Auditor General of the State of Michigan;
LOUIS BRUDER, County Treasurer of Presque Isle County, Michigan;
JAMES H. KERR, County Treasurer of Alpena County, Michigan;
THOMAS D. JAMES, County Treasurer of Cheboygan County, Michigan;
HERMAN LUNDEN, County Treasurer of Montmorency County. Michigan, and
ALLEN S. MARTINDALE, County Treasurer of Otsego County, Michigan,
Appellees.

No. 261

Appeal from the Circuit Court of the United States for the Eastern District of Michigan, Northern Division, In Chancery.

BRIEF FOR APPELLANT.

ABSTRACT OF CASE.

This case involves the constitutionality of the General Tax Law of the State of Michigan.

Briefly the system of taxation obtaining in Michigan is the assessment of property by local officers, called Supervisors in Townships and Assessors in Cities and Villages, subject to review by a Board of State Tax Commissioners. The property assessed, both real and personal is without other classification taxed at a uniform rate. If not paid to the local collecting officers within a specified period, the taxes become a lien upon the real estate, are returned to the County Treasurer and by him to the Auditor General (a State officer) as delinquent. The Auditor General obtains *ex parte* an order of publication from the Circuit Judge that it is proposed to take a decree against said lands and sell them commencing the first Tuesday in May for the delinquent taxes. One year is allowed for redemption. No purchaser of a tax title can obtain process for possession until he has served, as provided by law, notice upon the owner of the original title, giving the latter the option within six months of paying 100 per cent. of the purchase price, together with costs and expenses.

The original Bill was demurred to and an order entered sustaining the demurrer. An Amended Bill was filed in accordance with the Rules. For the purposes of this hearing only that part of the Record containing the Amended Bill of Complaint and subsequent pleadings, that is embracing pages 85 to 141, is material.

In making the statement of the case we will quote where found necessary, those provisions of the statute applicable to the different allegations.

The Amended Bill of Complaint naming said defendants and joining their successors in office, sets forth that the Appellant owns lands (specifically described in Exhibit "A" to the Amended Bill of Complaint) in the Counties of Alpena, Cheboygan, Montmorency, Otsego and Presque Isle, in the State of Michigan, against which taxes to the amount of $25,000.00 and upwards have been assessed

under the General Tax Laws of the State of Michigan, viz: the laws of 1869, 1882, 1885, 1889, 1891 and 1893, principally the law of 1893; all of which have been repealed except the General Tax Law of 1893; and the disposition of Appellant's lands is controlled by the law of 1893 and his lands have been sold or are held for sale for such assessed taxes under the provisions of the General Tax Law of 1893.

That it is the duty of the Auditor General of the State of Michigan and the several County Treasurers to enforce collection of said taxes by sale of said lands under said law; and that said lands have been so sold.

That the Appellant has always contributed his just proportion of the taxes of the State.

That by Article XIV, Section 1, of the Constitution of the State of Michigan the Legislature is required "to provide for * * * such deficiency as may occur in the resources;" that there is an annual deficit; that such deficit in the resources of the State, in said Counties and the Townships therein, resulting from individual default, is assessed in a susequent year not upon the taxpayer, who is delinquent, but upon the taxpayers generally; so that those taxpayers, including Appellant, who have already paid their proportion of the taxes, are called upon to pay an additional proportion of the same taxes, thus making their share unequal and illegal.

Amended Bill of Complaint, Par. 16, R. p. 90.

That the Constitution of the State of Michigan, Article XIV, Section 12, provides:

"All assessments hereafter authorized shall be on property at its cash value."

That Appellant's property has not been assessed at its cash value; that although Appellant purchased his said lands with scrip, which could be bought for 50 cents on the dollar, giving

$1.25 in scrip for one acre of land, yet said lands were immediately upon Appellant acquiring them, assessed at $5.00 per acre when Appellant was offering the same for $2.00, then for $1.75 and finally for $1.50 per acre, and was unable to sell the same; that he was offered only $1.00 per acre for said lands; and that by the assessing officer who assessed them at $5.00 per acre and said lands were assessed higher than similar lands of equal value.

Amended Bill of Complaint, Par. 14 and 15, R. p. 89.

That the Legislature of the State of Michigan has construed the words "cash value" as used in said Article XIV, Section 12, of the Constitution in Section 27 of General Tax Law of 1893 as follows:

"The words 'cash value,' whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale. In determining the value the assessor shall also consider the advantages and disadvantages of location, quality of soil, quantity and value of standing timber, water power and privileges, mines, minerals, quarries or other valuable deposits known to be available therein and their value"

That the construction of a statute is not a legislative, but a judicial prerogative; that said construction is not legally warranted; and that the Legislature has usurped the powers and functions of the Court by rendering such legislative judgment or decree in advance of and without any notice or hearing.

Amended Bill of Complaint, Paragraphs 11 and 12, R. pp. 88-9.

That said laws contain provisions requiring the Supervisor or Assessing Officer to demand from the Appellant a state-

ment of his property to be used as the basis of his assessment; other provisions requiring the officers entrusted and charged with the collection of said taxes to demand payment of said taxes; and still other provisions requiring such officers before returning said taxes unpaid and thus making them a charge upon real estate to seize personal property sufficient to pay and discharge them; that none of said demands were made upon the Appellant and his personal property was not seized and collection of said taxes enforced, although at all times he had within the jurisdiction of said officers personal property more than sufficient to satisfy all demands for said taxes.

Amended Bill of Complaint, Paragraphs 18, 19 and 20, R. pp. 91 and 92.

That personal property varying in value from $500 000.00 to $1,000,000.00 in each of the Counties mentioned, was fraudulently and intentionally omitted annually from the Assessment Rolls, thus discriminating against Appellant.

Amended Bill of Complaint, Par. 21, R. p. 92.

That personal property is assessed in some instances at its situs, the residence of the owner, or at a place which is neither its situs nor the owner's residence. (This applies to forest products.)

Amended Bill of Complaint, Par. 23, R. p. 92.

That said General Tax Laws do not furnish any rules for classification of property for assessment based upon relative differences and existing distinctions in property and resting upon an intelligible and reasonable foundation. The only classification attempted is into real and personal.

Amended Bill of Complaint, Par. 23, R. p. 92.

See also Section 19 General Tax Law 1903, hereinafter quoted on Pages 11-16.

That said General Tax Laws of 1882, 1889, 1891 and 1893, undertake to secure a judicial determination of the validity of the assessments thereunder and foreclosure of the tax lien by a judicial sale of the property assessed, but said proceedings violate the XIVth Amendment of the Constitution of the United States for the reasons:

(1.) "That judicial duties are assumed by the Legislature and conferred upon the Auditor General by said laws while to the Courts are delegated executive and ministerial duties; for example, the Legislature in effect pronounces decrees in tax cases while the Court merely acts administratively or clerically in entering and recording such decrees, while on the other hand, the Auditor General, a purely administrative and executive officer, hears and determines controversies regarding and exercises his judgment and discretion in cancelling tax deeds, thereby performing judicial functions constitutionally exercisable only by the Court."

Amended Bill of Complaint, Par. 23, R. p. 93.

The provisions of statute here referred to are as follows:

"If from any cause the hearing on said petition is not had on the day fixed in the notice therefor the same shall stand continued from day to day during the term without the entry of any order of continuance, until disposed of, and if it shall for any reason be found impracticable to hear and determine the objections to all of the taxes specified in such petition within the time herein fixed for that purpose, then and in that case the Court shall, within the time herein named, make a final decree as to all taxes to which no objections have been filed, and also those to which objections have been filed, which the Court has then heard and passed upon."

General Tax Law 1893, Section 67.

"Whenever any lands returned to the office of the Auditor General, or to the County Treasurer during the life of the tax law of eighteen hundred ninety-one, shall have been sold on

account of non-payment of taxes thereon, if the Auditor General shall discover before a conveyance of said land is executed and delivered:

"First. That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or

"Second. That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or

"Third. That such sale was in contravention of any of the provisions of this act; or

"Fourth. That a certificate that no taxes were charged against said lands has been given by the proper officer, within the time limited by law for the payment or redemption thereof, the Auditor General shall withhold a conveyance of such lands, and shall, on demand, cause the money paid therefor to be refunded to the purchaser with interest thereon at six per cent. per annum: Provided, That in the last mentioned case the person in whose behalf such certificate was given shall at the time of presenting such certificate to the Auditor General, pay to the State Treasurer, on the statement of the Auditor General, all taxes and charges due to the State upon such land at the time such certificate was issued. If the discovery is not made until after the conveyance has been executed and delivered, a certificate of error may be issued in proper form for record; and the deed, if not recorded, shall be surrendered when the purchase money is refunded. If the deed has been recorded the money shall be refunded on a recorded release from the holder of the tax deed.

General Tax Law 1893, Section 98.

(2.) That the order for appearance is "process" and does not run "In the Name of the People of the State of Michigan" as required by the Constitution.

Article VI, Section 35 of the Constitution of Michigan provides:

"The style of all prosess shall be 'In the Name of the People of the State of Michigan.'"

(3.) That the notice of publication, the only service attempted in these tax cases, is not such service as complies with Constitutional requirements.

"The publication of the order and petition aforesaid shall be equivalent to a personal service of notice on all persons who are interested in the lands specified in such petition, of the filing thereof, of all proceedings thereon and of the sale of the lands under the decree, and shall give the Court jurisdiction to hear such petition, determine all questions arising thereon, and to decree a sale of such lands for the payment of all taxes, interest and charges thereon."

General Tax Law 1893, Section 66.

No distinction is made between residents and non residents. No attempt is made to obtain personal service; and none is required. No showing is made to excuse personal service and none is required.

The decree is in reality pronounced by the Legislature. The Court merely acts as a Clerk to record it. The proceedings are kept, not in the office of the Clerk or any other office of the Court, but in the office of the County Treasurer.

The Legislature directs the Court to enter a decree in every instance where no objection is filed, although in the case of another taxpayer, who has had made objection, the tax has been set aside on grounds that invalidate the entire levy.

That the proceedings are not *in personam* and cannot be upheld as *in rem* because there is no seizure of the property into possession of the Court.

Amended Bill of Complaint, Par. 24, R. pp. 92, 93 and 94.

That said laws do not provide for such a sale of Appellant's property as to bring the highest price therefor, but sell it in such a way as to confiscate it.

"For example, said tax law of 1893 provides that the lands shall be sold, not with reference to their value, as determined by assessment or otherwise, but to the person who will pay the tax and take the least undivided interest in the lands therefor, while under former laws it was for a specified interest to be set apart under the statutory rule *e. g.* from the north side of the parcel sold which said methods of sale are contrary to all legal and customary methods of judicial or public sales, and discourage bidding at such a sale for the reason that every person who would become the purchaser of the undivided interest in the parcel offered that would correspond to the amount of the tax for which the same is offered as compared with the total cash value of such parcel takes into consideration, the fact that the purchase of an undivided portion of the parcel offered may mean a law suit to have the premises so sold partitioned, and the amount of his purchase set off to him (said purchaser) so that in practice and effect the entire interest in the lands offered, is sold for the taxes; and said method of selling is illegal for the reason that the statutory rule governing the attempted sale of such lands takes into account only the amount claimed against said lands which, on the basis of the assessment and the rate of taxation is only a small fraction of the total cash value, although the evidence of the latter is on the roll before the State officers, when making such sale; and such system or method of selling for taxes does not consider the entire value of the lands attempted to be sold for taxes and provides no method by which the surplus value between the alleged tax for which the land is being sold and the total cash value can be saved or preserved to the owner."

Amended Bill of Complaint, Paragraph 25, R. pp. 94 and 95.

"On the first Tuesday of May, beginning at ten o'clock a. m., the County Treasurer shall commence the sale of the lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day, Sundays and other legal holidays excepted, until so much of each parcel shall be sold as shall be sufficient to pay such amounts. Each parcel described in the decree shall be separately exposed to sale for the total taxes, interest and charges, and the sale shall be made to the person paying the full amount charged against such parcel, and accepting a conveyance of the

smallest undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount of the tax on which the same is sold. If no person will pay the several taxes and charges and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold."

General Tax Law 1893, Section 70.

That said tax laws by curative provisions attempt to dispense with the provisions therein for the benefit of the taxpayer or landowner such as the demands therein for payment, seizure of personal property, etc., set forth in Sections 18, 19 and 20 of the Amended Bill of Complaint. (Record page 91.)

"That said Act No. 206 of the Public Acts of 1893, as amended under which all tax proceedings are now conducted is unconstitutional and void for the following reasons:

1. That it does not provide any uniform and equal rule of taxation or such rule of apportionment as is essential to taxation, but discriminates against property and individuals as, for example, under the provisions of Section 19, of said Act, banks and companies incorporated and unincorporated are permitted to deduct their indebtedness from the gross amount of their personal property; while in the case of vessel property, the owner whether a corporation or individual is permitted to deduct its or his indebtedness from the entire amount of its or his property; while in the case of an individual not engaged in banking or not doing business under a corporate name or not engaged in the vessel business, and your orator is such an individual, his indebtedness can be deducted only from his personal credits; from which Section 19, it appears clearly that it is the intention of the Legislature to permit deductions of indebtedness from other property in order to determine the amount of property which shall be assessed to any individual or corporation, and from Sections 5 and 11 of said Act providing that corporations and individuals shall be assessed alike, it further appears that corporations and individuals stand alike and upon the same footing before the law so far as their assessment and taxation are concerned and are subject to the same rules of assessment and taxation, but

it is impossible to apply the foregoing and conflicting sections and rules of assessment and taxation to the property of persons, including corporations and particularly to your orator and his said lands and property without producing great injustice and gross inequality in the assessment and taxation of the same and thereby causing discrimination against and confiscation of his property and thereby denying him the equal protection of the law and depriving him of his property without due process of law in contravention and violation of the Constitution both of the United States and of the State of Michigan.

"2. That your orator is largely indebted in respect of said lands, to-wit: to the amount of fifty cents ($0.50) or thereabout per acre which said indebtedness by reason of said provisions of said law and the construction placed thereon by the defendants and other state officers, your orator is unable to deduct from the assessed valuation of said lands, although property of the same kind and class as that upon which said deductions are allowed to others,thus subjecting your orator and his said lands to discrimination and imposing thereon an unequal and excessive share of taxes and depriving your orator of his property without due process of law."

Amended Bill of Complaint, Par. 28, pp. 95 and 96.

Section 19 of the General Tax Law being Section 3842, of the Compiled Laws of 1897. Michigan, is as follows:

"In taking such assessment the Supervisor or Assessor shall use one of the following blank forms, as may be necessary:

Property of Bankers and Brokers.—The principal or accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock jobber shall make out and deliver to the Assessor a statement which he shall verify by oath, showing:

1. The amount of money on hand and in transit.

2. The amount of funds in hands of other bankers, brokers, or other persons, subject to draft.

3. The amount of checks and other cash items not included in either of the preceding items.

4. The amount of bills receivable, discounted or purchased, and other credits due or to become due.

5. The amount of bonds and stocks of every kind except United States bonds, and shares of capital stock of corporations or companies held as an investment or in any way representing assets.

6. All other property appertaining to said business other than real estate.

7. The amount of all deposits made with them or other parties.

8. The amount of all accounts payable, other than current deposit accounts.

9. The description and value of all real estate owned by him or them.

The aggregate amounts of the seventh and eighth items shall be deducted from the aggregate amounts of the first, second, third and fourth items and the remainder, if any, shall be assessed as moneys. The amount of the fifth item shall be assessed the same as other similar property, and the assessor shall make a separate entry of each of these amounts (separate from the assessment of real estate) and the whole shall make up the aggregate personal assessment of such person, party or corporation.

For Pawnbrokers.—Every person or company engaged in the business of receiving property in pledge or as security for money or other consideration or thing advanced to pawner of pledger, shall be held to be a pawnbroker and shall be required to make a statement and return under oath, reciting:

1. The value of all stock in trade actually owned by him or them and the true cash value thereof.

2. The amount and value of all property held in pawn for any pawner, pledger or customer.

3. The aggregate amount of money consideration or value paid and advanced by such pawnbroker thereon.

And the amount of the true cash value of all such property, less the amount of consideration or value paid, shall be assessed as the property of such person or corporation.

Property of Companies.—The president, secretary or principal accounting officer of any company or association, incorporated or unincorporated, except railroad, insurance and telegraph companies and banking corporations, the taxation of which is specifically provided for by law, shall make out and deliver to the Assessor a sworn statement setting forth the following:

1. The name and location of the company, corporation or association.

2. The amount of capital stock authorized and the number of shares into which the same is divided.

3. The amount of capital actually paid in.

4. The market value of the stock or if they have no market value, then the actual value of the shares of stock.

5. The cash value of all its personal property, giving each kind separately as far as practicable.

6. The total of all *bona fide* indebtedness, except indebtedness for current expenses, excluding from such expenses all amounts paid for the purchase or betterment of said property.

7. The description and value of all real property.

The amount of the seventh item shall be deducted from the amount of the fourth item, and the balance, if any, assessed as the cash value of the personal estate. The amount of the sixth item shall be deducted from the amount of the fifth item, and the balance, if any, assessed as personal.

Vessel and Marine Property.—The president, secretary or principal owner of all navigation or transportation companies, and each and every owner of any vessel, steamboat, wharf boat, barge or water craft, shall make out and deliver to the Assessor a sworn statement setting forth:

1. The name of the company.

2. The location of its principal office.

3. The amount of capital stock paid in.

4. The cash value of such stock.

5. The name of each and every boat or vessel owned by such company or individual, with its insurance rate and value.

6. The value of all other personal property used and belonging therewith or thereto.

7. The actual *bona fide* indebtedness upon every such boat or vessel separately.

8. The value of all real property owned by such company or person, with the description of the same, if in his assessing district.

9. The value of all franchises, slips or docks owned or used by such company or person.

The actual value of all such property after deducting the amount of the seventh item shall be deemed the assessable value of such property.

In case of the refusal of the president, secretary, principal accounting officer or owner hereinbefore mentioned to make the statement or statements hereinbefore recited and required, the Prosecuting Attorney shall cause such person, on complaint of such Assessing Officer, to appear forthwith before a Circuit Court Commissioner, who is hereby authorized to issue summons therefor and to order its service and to compel the attendance of said officer or person in obedience to such summons, and to examine them under oath, and make such investigation at the expense of such bank, corporation or person as may enable such Commissioner and Assessing Officer to obtain the information provided for in this section.

For General Purposes. Every owner of property liable to taxation under the provisions of this act being of full age and sound mind, who is a resident of this State, shall make out and deliver to the Supervisor or Assessor on demand, a sworn statement of all the property owned or held by him, as follows:

REAL PROPERTY.

An accurate description of each parcel of land, with the number of acres contained therein.

PERSONAL PROPERTY—CREDITS.

1. All annuities and royalties.

2. All credits of every kind owing to such person, whether such indebtedness is due from individuals or from corpora-

tions, public or private, and whether debtors reside within or without this State, including all deposits in banks or with other corporations or individuals; together with a statement of any part thereof that is secured by real estate mortgage on lands situated in some other State.

3. All *bona fide* indebtedness, owing by such person, giving an itemized statement in detail, how secured, and to whom owing, and the residence of such creditors and the amount due each, provided he desires to have the same deducted from his credits.

PERSONAL PROPERTY—CHATTELS.

1. All shares in banks organized in this State under any law of this State or of the United States, and their cash value after deducting the value of the real estate taxed to banks.

2. All shares in foreign corporations, except national banks, and their cash value.

3. All shares in other corporations organized under the laws of this State when the property of such corporation is not exempt, or is not taxable to itself, and their cash value.

4. All moneys.

5. The value of all gold and silver plate, watches, diamonds and jewelry.

6. The value of all household furniture, over and above exemptions.

7. The number and value of all billard tables and other personal property used in connection therewith, and all other similar property owned or in possession by him.

8. All patent rights and their value.

9. The number and kinds of domestic animals not exempt, and their value.

10. All carriages and other vehicles, and sleighs kept for pleasure or hire, and their value.

11. All mechanical and agricultural implements and tools, and their value.

12. All machinery not affixed, to real property, and its value.

13. All ships, boats and vessels, whether at home or abroad, and their value.

14. All merchandise and stock in trade, including grain in elevators, and its value.

15. All logs, timber, lumber, posts and ties, and their value, where the same is situate on the second Monday in April, as near as may be, and the distinctive marks thereon, if any, and place of destination in this State.

16. All other goods, chattels and personal property not heretofore specifically mentioned, and their value, except property specifically exempt from taxation.

17. All goods and chattels which are exempt from taxation.

18. All moneys or other personal property held as assignee, attorney, executor, guardian or agent, liable to taxtion under the laws of this State.

19. The number of dogs of all kinds over six months old.

20. The value of all elevators, warehouses and improvements on lands, the title to which is vested in any railroad corporation, and the value of the contents."

That under the provisions of said law if there are no bidders for the lands offered for sale for delinquent taxes, said lands so offered, and for which no bids are made, are bid off by the County Treasurer in the name of the State for the State, County and Township in proportion to the taxes, interest and charges due each; and if so bid off to the State for consecutive years the said lands so bid off under the provisions of said law, may without any hearing or opportunity to the owner or others interested therein to be heard, be declared homestead lands and open for entry as State homestead lands at the price of ten cents per acre, coupled with other conditions including five years' continous residence on said lands and improving the same; and when so set apart for homestead lands, all the taxes thereon are cancelled, although far exceeding in amount said sum of ten cents per acre and said lands are thereupon exempted from taxation; said lands, including some lands of your orator (Appellant) have been so homesteaded,

that is, placed upon the State homestead list, in the Counties and Townships in which your orator's (Appellant's) said lands are situate, whereby your orator (Appellant) and his said lands have been discriminated against and a greater burden imposed upon him and them, and the credits, property and money of said Townships and Counties confiscated by the State with resulting losses, to, and increased taxation of your orator (Appellant) and his said lands, thereby denying to your orator (Appellant) the equal protection of the law and depriving him of his property without due process of law.

Amended Bill of Complaint, Par. 28, Sub-Div. (5), Rec. pp. 97 and 98.

The statute here referred to reads as follows:

"Section 130. All taxes charged against such lands in the office of the Auditor General at the time they are deeded, shall be cancelled, but no part of such taxes due to the Townships or County shall be charged to the State, but each shall bear the share of loss in such taxes as properly belong to each, and the Auditor General shall make a list of all such lands in each County and shall transmit such list to the County Treasurer, and shall direct such County Treasurer to notify the Board of Supervisors at its next session that such lands belong to the State and are no longer taxable, and such Board of Supervisors shall cause all such lands so deeded and certified to said Board to be stricken from the tax rolls of the several Townships in their County, and said lands shall not be liable to any assessment for any purpose until the same are again sold by the State and notice of such sale given to the County Treasurer by the Commissioner of the State Land Office as herein provided.

"Sec. 131. All such lands shall be held by the Commissioner of the State Land Office subject to entry as homestead lands, and if any person shall apply for them or any part thereof, not to exceed in quantity two hundred forty acres for any one person so applying, and shall file an affidavit that such person desires such lands for actual settlement, for the purpose of a homestead, the Commissioner shall issue a certificate to such

person for such land upon the payment of the sum of ten cents per acre, conditioned that such person shall reside continuously upon said lands for the period of five years and improve the same," etc.

General Tax Laws 1893, Secs. 130 and 131.
Compiled Laws 1897, Mich., Secs. 3952 and 3953.

Since this suit was commenced, the above law has been amended to read as follows:

"The proceeds for any such sale shall be accounted for to the State, County and Township in which said lands are situated pro rata according to their several interests therein arising from the non-payment of taxes thereon, as such interest shall appear in the office of the Auditor General."

Public Acts 1901, Mich., No. 141, p. 188.

That a State Board of Tax Commissioners was created by Act 154 of the Public Acts of 1899, the same being an amendment to the general tax law. It is objected that judicial power was conferred upon this Board; that it is destructive of local self government; and that it invades the liberty of the citizen by illegal inquisitions.

That the Constitution of the State of Michigan provides, Art. 4, Sec. 22, that "The Legislature shall provide by law that the furnishing of fuel and stationery for the use of the State, the printing and binding the laws and journals, all blanks, paper and printing for the Executive Departments, and all other printing ordered by the Legislature shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof." But the General Tax Law authorizes and permits the Auditor General of the State to select a newspaper for the publication of

the notices required by the General Tax Law, and pay the publisher thereof forty cents (40c) per description, although five cents per description would be a reasonable charge for such printing; and such printing is generally sub-let by such papers for less than five cents (.05c) per description.

Amended Bill of Complaint, Pars. 31 and 32, R. pp. 100 and 101.

The provision of the Tax Law is as follows:

"The cost of such advertising shall in no case exceed the sum of forty cents for each description of land so advertised and sold, and shall be paid by the State Treasurer upon the warrant of the Auditor General, out of the general fund of the State."

That the Auditor General includes as a charge against each description of land offered for sale one dollar (formerly seventy cents) for cost of advertising and other expenses of sale under said laws, although in the taxes collected all the expenses of his department and all other departments of State, embracing those very items of advertising, etc., are included; and although there is a collection fee provided by law which is collected in addition to said charge for expenses of sale, etc.

Amended Bill of Complaint, Pars. 31 and 32, R. pp. 100 and 101.

That even the provisions of law governing the assessment and collection of taxes have been continuously and persistently disregarded, so that said assessments and taxes are void.

Rec. pp. 100, 101 and 102.

That void assessments can never be made the foundation for a valid decree.

That the methods of sale provided by the tax law discriminate against the owner of property. The lands are sold, not

to the highest bidder, but to the person who will accept the smallest interest in the lands and pay the tax.

Amended Bill of Complaint, Par. 39, Rec. p. 104.

The provision of law is as follows:

"Each parcel described in the decree shall be separately exposed to sale for the total taxes, interest and charges, and the sale shall be made to the person offering to buy for any given tax and paying the full amount charged against such parcel, and accepting a conveyance of the smalles undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount of the tax on which the same is sold. If no person will buy for any of said several taxes and pay the balance thereof and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold."

General Tax Law 1893, Sec. 70.
Compiled Laws 1897, Mich., 3893.

That the method of equalization provided by the tax law is discriminating, for the reason that in apportioning the State tax by the County Board of Supervisors to the various townships, the assessment is equalized by taking into consideration only the real property in each township, and omitting the personal property; but in apportioning the State tax to the various counties, the State Board of Equalization takes into acount the total taxable property in each County, both real and personal.

The Board of Supervisors sits as a County Board of Equalization, and for the State there is a State Board of Equalization.

Amended Bill of Complaint, Par. 41, p. 104.

The statute reads as follows:

"The Board of Supervisors in each County shall, at their session in October in each year, examine the assessment rolls of the several Townships, Wards, or Cities, and ascertain whether the relative valuation of the real property in the respective Townships, Wards, or Cities has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in any Township, Ward or City, or Townships, Wards, or Cities, such an amount as in their judgment will produce relatively equal and uniform valuation of the real property in the County, and the amount added to or deducted from the valuation of any Township, Ward of City, shall be entered upon the records, etc."

General Tax Law, 1893, of Michigan, Sec. 34.
Compiled Laws 1897, of Michigan, 3857.

The State Board of Equalization is constituted and empowered as follows:

"Section 1. The People of the State of Michigan enact, That there shall be a State Board of Equalization, to consist of the Lieutenant Governor, Auditor General, Secretary of State, State Treasurer, and Commissioner of the Land Office, whose duty it shall be, in the year eighteen hundred and fifty-one, and every fifth year thereafter, to equalize the assessments on all taxable property in the State, except that paying specific taxes, as hereinafter provided.

Sec. 2. It shall be the duty of the Board to meet at the Capitol in the Village of Lansing, on the third Monday of August, and the persons composing it shall organize by choosing one of their number chairman, and the Deputy Auditor General, or one of the Clerks in the office of the Auditor General, shall act as Secretary, who shall keep a record of the proceedings, which shall be certified by said Chairman and Secretary, and filed in the office of the Auditor General."

Compiled Laws 1897, Mich., Secs. 129 and 130.

That the general tax law provides that in case the tax title is held void or invalid, the State shall repay the purchaser the amount of his purchase price with interest at the rate of eight per cent per annum. This is claimed to be illegal and unconstitutional and class legislation, in that it favors the purchasers of tax titles and is forbidden by Art. 14, Sec 6, of the State Constitution, which is: "The credit of the State shall not be granted to, or in aid of, any person, association or corporation."

Amended Bill of Complaint, Par. 45, Rec. p. 105.

That the General Tax Law of 1893 permits redemption after one year, providing the owner of the original title pays to the purchaser of the tax title the amount paid therefor with one hundred per cent, costs and charges to be added.

That so far from the tax law being general, it permits some municipalities, for instance the City of Grand Rapids, Michigan, to enforce the collection of city taxes by a sale by the City authorities, after publication of a notice of the time and place of such sale of the lands against which said taxes are assessed, without taking any judicial proceedings; but it does not permit the Townships in which Appellant's lands are situate to do so, but the sale of the same is governed by the general provisions of the Tax Law and the Auditor General, a State officer, has charge of the proceedings.

Amended Bill of Complaint, Par. 47, Rec. pp. 105-6 and 7.

The Appellant hereby offers and is willing and ready to pay any taxes due by him, in case the same can be separated from the illegal taxes and should the laws herein complained of be held constitutional.

That he claims that the illegal and void assessments cannot be distinguished or separated, but extend to and affect the whole tax levy.

That until after the law of 1893 was passed tax titles were considered and generally held void in the State of Michigan, and Appellant so considered claims and titles for taxes asserted against his lands; but since 1893 the Courts of the State of Michigan have been upholding tax titles. Appellant thereupon promptly filed his Bill in this case.

That at the time of the filing of the original Bill herein, no third persons were interested in the lands described in the schedule hereto attached.

That the Tax Law of 1882 was a departure from the previous policy of the State in enforcing and collecting taxes.

That although tax titles, previous to the passage of the general Tax Law of 1893, were considered of no value, now, however, the Auditor General attempts and pretends to acquire, on the sale of said lands for taxes, the fee simple title thereto; and claims to have cut off all right, title or interest of the Appellant in and to said lands; and that said Auditor General and the several County Treasurers mentioned are asserting title to said lands and attempting or threatening to dispose of the same without regard to the Appellant's rights; but Appellant claims that they are trespassers, acting without warrant or authority of law, and that the proceedings which have been taken and the titles which they are asserting constitute a cloud upon the title of Appellant to said lands, which ought to be removed, and Appellant is without any adequate remedy at law.

That even if said laws were held to be constitutional, yet the proceedings thereunder have been unconstitutional.

That the unconstitutional and void features and provisions of said laws extend to and affect said laws as a whole, and

cannot be separated therefrom without doing violence to the whole.

That the intention of the Legislature, as expressed in said laws, cannot be carried into effect without said unconstitutional parts; and that therefore said laws must in their entirety be held unconstitutional.

That said lands are of the value of fifty thousand dollars and upwards.

That this Bill is filed to prevent a multiplicity of suits.

Appellant prays as relief:

That said laws may be declared unconstitutional and void.

That all assessments of said lands, taxes levied thereon, and sales thereof made for taxes, by virtue of said laws, may be cancelled, held for naught, and declared null and void as a cloud upon the title of Appellant.

That all conveyances made in pursuance of said laws may be declared null and void and ordered to be delivered up to be cancelled, and in default thereof that the decree herein operate as a re-conveyance.

That the title of Appellant may be ~~quited~~ quieted and he declared the owner in fee simple of said lands and entitled to the possession thereof.

That the defendants and all persons claiming through them may be required to yield and deliver up possession of said lands.

That the defendants may be perpetually enjoined from assessing said lands, levying any taxes thereon, making any sales thereof, or otherwise disposing of said lands, in pursuance of the provisions of said laws.

And for general relief.

Rec. pp. 111 and 112.

The defendants have made no attempt to meet the case made by the bill on the merits, but have filed demurrers, claiming that the bill should be dismissed on technical grounds.

The Auditor General, Perry F. Powers, who succeeded Roscoe D. Dix, Auditor General of the State of Michigan, when the bill was filed,alleges the following grounds of demurrer:

"1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a Court of Equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said amended bill or of any such matters.

"2. The complainant is not entitled upon said bill to the relief he prays for because he had a plain and adequate remedy at law.

"3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000) dollars exclusive of interest and costs.

"4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

"5. It appears by the said amended bill of complaint that this suit is in its effect a suit against the State of Michigan.

"6. An amended bill of complaint will not lie against the successor in office of Roscoe D. Dix, Auditor General of the State of Michigan." (R. p. 122.)

The demurrers filed by the County Treasurers are similar to that filed by the Auditor General, simply alleging in addition that the County Treasurer is improperly joined. (R. pp. 123-132.)

The Court below sustained the demurrers on the ground that the suit had abated by reason of the retirement of Roscoe D. Dix and the election of his successor and that this was in

effect a suit against the State of Michigan; and an order and decree entered in accordance with said opinion dismissing Appellant's Bill and Amended Bill.

See Opinion, etc. Record pps. 133, 134 and 135.

II.

The errors relied upon are as follows:

"That said Circuit Court erred in dismissing the said Bill of Complaint and Amended Bill of Complaint of complainant and Appellant.

"That said Circuit Court erred in not entering a decree for said complainant and Appellant upon the pleadings in said cause.

III.

ARGUMENT.

In the first place it is important to consider the nature of a demurrer as a pleading.

A demurrer admits all facts well pleaded.

The Appellant submits that in the Amended Bill of Complaint he has averred, and the defendants, by their demurrers, admit, facts that entitle him to the relief prayed for, unless, as a matter of law, this suit is in reality one against the State; or has abated by one Auditor-General—a State Officer, whose

duties are prescribed by law, elected every two years—having succeeded another.

The first ground of Demurrer, that the Amended Bill does not make or state a case of equitable jurisdiction, does not appear to have been considered by the Circuit Judge and we submit that inspection of the Amended Bill itself effectually disposes of this ground of Demurrer.

The Appellant asks to have a cloud removed from his title, to cancel and set aside assessments, taxes, proceedings and conevyances. These are not only remedies cognizable by and peculiar to a Court of Equity, but cannot be obtained in a Court of Law. This disposes of the second ground of Demurrer, that Appellant has an adequate remedy at law.

It is alleged that the taxes complained of and which it is attempted to set aside, amount to $25,000.00 (R p. 87, fol. 148, Am. Bill, par 8), and that the lands to which title is involved are of the value of $50,000.00 (R. p. 111, fol 190, Am. Bill, par. 65). It is also alleged specifically that the matters and amount in dispute herein exclusive of all interest, costs and charges, exceed in each of said Counties, $2,000.00 (R. p. 85, fol. 144, Am. Bill, par 2). This should dispose of the third ground of demurrer, that the jurisdictional amount is not involved.

As a fourth ground of demurrer it is alleged that it appears on the face of the Amended Bill of complaint that Appellant has been guilty of gross laches.

Appellant has been in continuous possession of said lands (R. p. 89, fol. 150, Am. Bill, par. 13) and no third persons have acquired any interest therein. (R. p. 108, fol. 186, Am.

Bill, par. 52.) Under such circumstances there can be no laches. In addition Appellant has always claimed and contended that said Tax Laws and all proceedings thereunder are absolutely void.

In Galliher vs. Cadwell, this Court say the cases "all proceed upon the theory that laches is not like limitation, a mere matter of time; but principally a question of the inequity of permitting the claim to be enforced, an inequity founded upon some change in the condition or relations of the property or the parties."

Galliher vs. Cadwell, 145 U. S., 368 at p. 373.

This statement of the legal principle was afterwards cited and followed in Johnson vs. Atlantic G. & W. I. Transit Co., 156, U. S., 618 at p. 648.

In Bartlett vs. Ambrose, 42 U. S. C. C. App. 381; 76 Fed. Rep. 483, it was held that the owner of land having every reason to believe taxes paid is not guilty of laches though barred by the Statute of Limitations. The Appellant presents an even stronger case. He is not barred by the Statute of Limitations, and he believed and asserted the taxes to be void and until within a short time previous to the filing of the Bill the taxes and titles founded thereon had not been enforceable in the Courts.

Appelant's whole case is based upon the facts that said laws are void and unconstitutional; and that all the proceedings thereunder are without jurisdiction and void.

"A want of jurisdiction may always be taken advantage of by the parties whose interests were prejudiced."

Gillett vs. Needham, 37 Mich., 147.

"A void judgment is, in legal effect, no judgment. By it no rights are divested. From it no rights can be obtained.

Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it, and all claims flowing out of it, are void. The parties attempting to enforce it may be responsible as trespassers. The purchaser at a sale, by virtue of its authority, finds himself without title and without redress. The first and most material inquiry in relation to a judgment or decree, then, is in reference to its validity. For, if it be null, no action upon the part of the plaintiff, no inaction upon the part of the defendant, no resulting equity in the hands of third persons, no power residing in any Legislative or other department of the Government, can invest it with any of the elements of power or of vitality. It does not terminate or discontinue the action in which it is entered, nor merge the cause of action; and it therefore cannot prevent the plaintiff from proceeding to obtain a valid judgment upon the same cause, either in the action in which the void judgment was entered or in some other action."

Freeman on Judgments, (4th Ed.) Sec. 117.
Cook vs. Lasher, 73 Fed. Rep., 701 at pp. 707-8.

It is unnecessary to multiply anuthoities on this proposition.

But Appellant was in possession. "A person who has a lawful right; and is actually or constructively in possession, can never be required to take active steps against opposing claims. The law does not compel any man, who is unassailed, to pay any attention to unlawful pretences which are not asserted by possession or suit."

Groesbeck vs. Seeley, 13 Mich., 329 at p. 343.

Hence laches cannot be imputed to Appellant.

Two grounds of Demurrer remain in addition to the one that the County Treasurers' are improperly joined.

The County Treasurers' conduct the tax sales and perform other duties under the General Tax Law.

It would seem, then, that they should be joined as parties. If, however, they are improperly joined, that is an objection that can be cured by Amendment, and need not detain us.

We submit, however, that they are proper parties.

In the case of the Superior Canal and Railway Co. vs. Auditor General, 79, Mich., 351, a Bill was filed for the purpose of annulling certain school taxes and enjoining their collection, setting forth the illegality of the taxes and praying that they may be decreed to be unauthorized, illegal and void, and also praying for a perpetual injunction restraining defendants from advertising and selling said land for said taxes. It was held that the Auditor General was a proper party, in the following language, page 354, viz: *"We think that the Auditor General and County Treasurer are proper parties to the suit. The former initiates the proceedings for the sale of the lands, and the Treasurer makes the sale. The decree to be finally rendered in the case will affect their action in the premises, and determine whether or not they shall proceed under the tax law to a sale."*

Is this a suit against the State? and; Has this suit abated by reason of the fact that Dix, Auditor-General, has been succeeded by Powers, Auditor-General?

Let us discuss the last ground of Demurrer first.

Defendants rely upon the case of Warner Valley Stock Co. vs. Smith, 165 U. S., 28, which was a case where some affirmative action was sought against Hoke Smith, once Secretary of the Interior of the United States, who had resigned when that case came before this Court, and it was held that the suit had abated for the reasons:

1. That officers of the United States differ from a municipal board, which is a continuing corporation (although its individual members may be changed) and to which in its corporate capacity a writ of mandamus may be directed; and,

"Cases in which it has been held by this Court that an abatement took place by the expiration of the term of office have been those officers of the Government whose alleged delinquency was personal, and did not involve any charge against the Government whose officers they were."

Water Works Co. vs. Barnett, 103 U. S., 180, at pp. 484 and 485.

2. That the mandatory injunction prayed for was in effect equivalent to a writ of mandamus to the Secretary, and as it was issued to compel him to perform a duty, it necessarily followed that on the death, or retirement, of an officer, the writ must abate in the absence of any statutory provision to the contrary; for his successor might comply with the demand and render the interposition of the Court unnecessary.

Neither of these reasons apply to this case. The Appellant does not seek to have the Auditor General perform a discretionary act, but is attempting to prevent the Auditor General, whose duties are prescribed by an unconstitutional statute, from pursuing a policy and procedure prescribed by that unconstitutional law. Whoever the Auditor General is, he has no option under the law but to obey its provisions.

We are not seeking to compel any course of action on the part of the Auditor General, but merely wish to prevent his injuring Appellant in his person and property by the enforcement of a law which is unconstitutional.

This is a case where the wrong has been done and continues and will continue unless corrected by this Court. We do not seek to control some future act but to prevent an unlaw-

ful and unconstitutional act already performed from working further injury; in other words, we ask to have an accomplished act undone. In the case against Secretary Smith, where a mandatory injunction was refused, an appeal or demand lay to his successor and might, as this Court suggests, be effectual. In the case at bar a demand upon the successor of Roscoe D. Dix would be useless and of no more avail than a demand upon Roscoe D. Dix himself. The law, not the discretion of the Auditor General, determines his action.

It would be unreasonable to permit this action to abate, for, in the case at bar, the defendants have no option but to obey the unconstitutional law. As to them, it is constitutional until declared unconstitutional by a Court of competent jurisdiction. In fact, it is their rule of conduct while occupying their offices, and unless set aside, constitutes the rule of conduct of their successor or successors, as it did that of their predecessors. No demand made upon them would alter their administration of the law.

Powers, Auditor General, is defending this suit and is represented here by the Attorney General of the State of Michigan and other Counsel, the same as Dix, Auditor General, would have been had he not retired from office. The present Auditor General is taking advantage of every act of his predecessor, of which we complain; and if he claims the benefit of those acts and assumes the defense of this suit, even if the State stands behind him in making that defense, he will not and cannot be heard to urge this ground of demurrer. *He is estopped from doing so.*

The principle of the leading case has never been applied to cases other than those of Mandamus nor extended to officers other than those of the United States. The principle has been carried as far as it should. The difference between a Petition for Mandamus and a Bill filed to obtain, not a Mandatory

Injunction, but an Injunction which is a Restraining Order, suggests the limitation of the principle. *The cases where it has been held that they have abated by the retirement of the officers, are all cases where it was sought to enforce a personal duty and were based upon personal default.* The case at bar does not proceed upon such a theory.

The principle should never be applied where it is sought to reach a past act performed under authority of an unconstitutional law, where the mischief is complete. *In such a case the successor should not profit by his predecessor's wrong.* We do not believe that the Court and the law are powerless in such a case.

We believe, however, that the case is covered by Statute:

"The Auditor General shall be made a party defendant to all actions or proceedings instituted for the purpose of setting aside any sale or sales for delinquent taxes on lands held as State tax lands, or which have been sold as such or which have been sold at annual tax sales, or for purpose of setting aside any taxes returned to him and for which sale has not been made; in all such cases a copy of the Bill of Complaint or Petition shall be served upon the Prosecuting Attorney at the time of commencing the action, who shall send a copy thereof within five days to the Auditor General, which said service shall be in lieu of the service of process. Upon so being made a party, it shall be the duty of the Auditor General, whenever he shall, in his discretion, deem the same to be expedient to the end that the State of Michigan may be fully protected, to cause the Attorney General to represent him in such proceedings. In any suit or proceedings instituted for the purpose in this section mentioned, no costs shall be taxed against either party to the action."

General Tax Law 1893, Sec. 144.
(Amendment added by Act 97 of Public Acts of Mich., 1899.)

This Statute makes the Auditor General a necessary party to all proceedings involving the legality of any tax or proceeding under the General Tax Law. *Such being the case, the action lies against the successors of the Auditor General in office when the Bill was filed, and such Bill can properly be Amended to include such successor or successors.*

The successors of the Auditor General against whom the Bill was filed, stands in exactly the same position as a purchaser of property *pendente lite*.

If suitors are compelled to begin anew every time there is a change in the office of Auditor General or County Treasurer, it might be impossible to obtain relief, for the length of time required to get a hearing in a Court of last resort would probably in every case be greater than the tenure of office of any single Auditor General or County Treasurer. In fact the case was never intended as an authority or precedent where, as here, negative relief is sought.

Officers of the United States may act in a judicial rather than an administrative capacity, and the duties performed by the Secretary of the Interior are often judicial; but by law the duties of an officer of the State of Michigan, other than the judicial officers, are administrative, and it is prohibited administrative not discretionary action that we are attempting to control.

We submit also that this is not a suit against the State.

It is true that the Eleventh Amendment of the Constitution of the United States in effect prohibits any suit, in law or equity, being commenced or prosecuted against one of the United States by citizens of another state or by citizens or subjects of any foreign State. Litterally construed, this may not prevent jurisdiction in this case, even if held to be a suit

against the State; for Merritt Chandler, the Appellant, is a citizen of the State of Michigan, and the Amendment only refers to citizens of another State or of a foreign State.

It is presumed, however, that the intent was to prohibit a suit by any private individual against the State even, althought it be one of its own citizens claiming rights under the Constitution of the United States.

In construing this Amendment, however, this Court has distinguished between a State and its officers, and it is now a well recognized distinction that *while a private citizen cannot bring a suit against the State to compel it to perform a contract or to recover money from it, still he can restrain its officers as such from illegally appropriating his property and can recover from State officers property of his own which they are illegally detaining.*

While it has been held by the Courts of the State of Michigan that a State could not be sued in its own Courts, still this doctrine has been held within narrow limits; and in the case of the Bank vs. Hastings (1 Douglas, 225), it was held that this rule applies only where a State is made a party defendant to the record; and that where the late Auditor General, and his successor in office and other State officers were defendants, and it was sought to reach property held by them in their official capacity, that the Court had jurisdiction, although the State might be interested in the subject matter of the suit. In making this decision, the Supreme Court of the State of Michigan followed Osborne vs. Bank of the United States, 9 Wheaton, 738.

In that case (Michigan State Bank vs. Hastings), which was a suit against the Auditor General and his successor in office and others, we have the pivotal question in this case determined, viz.: *"That an injunction bill may be maintained*

against the Auditor General of the State and his successors in office."

The Federal decisions, when closely examined, are all one way on this question under like facts, and that is in support of our position, that the Bill can be maintained.

For the elementary law as laid down by the text-writers upon this question we cite Constitution of the United States by Tucker, Vol. 2, page 791, as follows:

"The decisions cited in the note hold that no suit against a State or its officers is allowed by the eleventh amendment to compel any affirmative action against the State or its officers. The State cannot so be enforced; but where the State through its officers, is taking affirmative action against a citizen, contrary to his constitutional right, he may either prevent it by injunction or redress it by an action against the officer, and, because the officer is without constitutional authority from the State to do the act, judgment will be allowed against the officer. It will be noted that this is substantially the same principle upon which the decision in Lee vs. United States, heretofore referred to, rested. In both cases the officer of the State was the State, as far as any suit against him was concerned, where he performs the duties which the State has constitutional power to impose upon him; but where the State has no such authority to impose the duty, his act is defenseless under the shield of the State, and he is liable for it as an individual."

The rule as laid down in Guthrie on "The Fourteenth Amendment to the Constitution of the United States," is as follows (pages 176-177):

"It is, therefore, essential that it should appear that any suit in equity is not against an officer of the State in his official capacity, to compel him to do or refrain from doing any act

as such an officer, but that the ground of the application is that the defendant is acting without authority of law, or, what is the same thing, under the pretense of a void statute, or threatening to do an act which, being without authority of law, cannot constitute official action, and therefore is but a trespass. When State officers are seeking to enforce a statute which deprives the individual or corporation of property without due process of law, and there is no plain, adequate and complete remedy at law, an injunction may issue against such officers, upon the theory that the individual is restrained from a trspass acting under pretended authority of a void law. The final conclusion of numerous cases in the Supreme Court is that where a suit is against defendants who claim to act as officers of the State, and who, under color of an unconstitutional statute, permit acts of wrong and injury to the property of the plaintiff, and the proceeding is brought to recover money or property in their hands unlawfully taken by them on behalf of the State, or for compensation for damages, or to restrain threatened illegal action, such a suit is not, within the meaning of the eleventh amendment, an action against the State, but against individual trespassers."

The provision of the eleventh constitutional amendment preventing suits against the State is limited to cases where the State is a party to the record. See Desty's Federal Procedure, (9th Ed.,) Vol I, pages 25 and 26 and cases there cited.

The case of Osborne vs. President, Directors and Company of the Bank of the United States, 9 Wheaton, 738, decided in 1824 by Chief Justice Marshall, was against the Auditor General of the State of Ohio to prevent him from proceeding against complainants under an act of the Legislature to levy and collect the taxes from all banks, individuals, &c. At page 856, the Court said: "It may, we think, be laid down as a rule which admits of no exception, that in all cases where juris-

diction depends upon the party, it is the party named in the record. Consequently, the eleventh amendment, which restrains the jurisdiction granted by the Constitution over suits against states, is, of necessity, limited to those suits, in which a State is a party on the record. The amendment has its full effect, if the Constitution be construed as it would have been construed had the jurisdiction of the Court never been extended to suits brought against a State, by the citizens of another State, or by aliens. The State not being a party on record, and the Court having jurisdiction over those who are parties on the record, the true question is, not one of jurisdiction, but whether, in the exercise of its jurisdiction, the Court ought to make a decree against the defendants; whether they are to be considered as having a real interest, or as being only nominal parties."

The case of Davis vs. Gray, 16 Wallace, 203, was a case against the Governor and Commissioners of the General Land Office, page 210 where a person who had been appointed a receiver of a railroad to which a large grant of lands had been made by the State was seeking to enjoin the officers of the State who had decreed the lands forfeited to the State from granting them to other persons. The bill in this case was demurred to because it was alleged that the relief asked was prohibited by the eleventh amendment to the Constitution. (page 214.)

Justice Swayne, rendering the opinion of the Court, on page 220, affirmed the Osborne case

In the case of the United States vs. Lee, 106 U. S., 196, the question was involved as to whether or not the United States could be sued, and it was there held that the doctrine that the United States could not be sued had no application to the officers of the United States, who, as such officers, hold possession of property and are sued therefor by persons

claiming to be the owners of the property, or entitled threto; but the lawfulness of that possession and the right or title of the United States thereto may, by a Court of competent jurisdiction, be the subject matter of inquiry and adjudged accordingly.

The Virginia Coupon Case, 114 U. S., 270, is a case where an action of detinue for personal property was against persons for delinquent taxes, in payment of which the parties had duly tendered coupons cut from bonds of the State of Virginia under the Funding Act of March 13, 1871. The Osborne case was cited on page 296, and we call especial attention to the 8th and 9th subdivisions of the syllabus.

"8. The State has passed no such law, for it cannot; and what it cannot do, in contemplation of law it has not done. The Constitution of the United States and its own contract, both irrepealable by any act on its part, are the law of Virginia, and that law made it the duty of the defendant to receive the coupons tendered in payment of taxes, and declared every step to enforce the tax thereafter taken to be without warrant of law, and therefore a wrong. This strips the defendant of his official character, and convicts him of a personal violation of the plaintiff's rights for which he must personally answer.

"9. It is no objection to the remedy in such cases that the Statute, the application of which in the particular case is sought to be prevented, is not void on its face, but is complained of only because its operation in the particular instance works a violation of a constitutional right; for the cases are numerous where the tax laws of a State, which in their general and proper application are perfectly valid, have been held to become void in particular cases, either as unconstitutional regulations of commerce, or as violations of contracts prohibited by the Constitution, or because in some other way they operate to deprive the party complaining of a right secured to him by the Constitution of the United States."

See also case In re. Ayres, 123 U. S., 427, from bottom of page 500 to and including page 506.

The case of Penoyer vs. McConnaughty, 140 U. S., page 1, is a suit in equity against Land Commissioner of the State of Oregon brought by the purchaser of swamp and overflowed lands in order to restrain the defendants from doing acts which the bill alleges are in violation of his contract with the State when he purchased the lands, and which are unconstitutional, destructive of the plaintiff's rights and privileges, and which it is alleged will work irreparable damage to his property rights so acquired, and is not a suit against the State within the meaning of the eleventh amendment to the Constitution of the United States. On pages 9 and 10, Justice Lamar drew the distinction between cases directed against the State and the other class of cases, to which this belongs, where suit is brought against the defendants who are claiming to act as officers of the State in the following language: "It is well settled that no action can be maintained in any Federal Court by the citizens of one of the States against a State, without its consent, even though the sole object of such suit be to bring the State within the operation of the constitutional provision which provides that "no State shall pass any law impairing the obligation of contracts." This immunity of a State from suit is absolute and unqualified, and the constitutional provision securing it is not to be so construed as to place the State within the reach of the process of the Court. Accordingly, it is equally well settled that a suit against the officers of a State, to compel them to do the acts which constitute a performance by it of its contracts, is, in effect, a suit against the State itself.

"In the application of this latter principle, two classes of cases have appeared in the decisions of this Court, and it is in determining to which class a particular case belongs that differing views have been presented.

"The first class is where the suit is brought against the officers of the State, as representing the State's action and

liability, thus making it, though not a party to the record, the real party against which the judgment will so operate as to compel it to specifically perform its contracts. In re. Ayres, 123 U. S., 443; Louisiana vs. Jumel, 107 U. S., 711; Antoni vs. Greenhow, 107 U. S., 769; Cunningham vs. Macon & Brunswick Railroad, 109 U. S., 446; Hagood vs. Southern, 117 U. S., 52.

"The other class is where a suit is brought against the defendants who, claiming to act as officers of the State, and under the color of an unconstitutional statute, commit acts of wrong and injury to the rights and property of the plaintiff acquired under a contract with the State. Suit, whether brought to recover money or property in the hands of such defendants, unlawfully taken by them in behalf of the State, or for compensation in damages, or, in a proper case where the remedy at law is inadequate, for an injunction to prevent such wrong and injury, or for a mandamus, in a like case, to enforce upon the defendant the performance of a plain, legal duty purely ministeral—is not, within the meaning of the eleventh amendment, an action against the State. Osborne vs. Bank of the United States, 9 Wheat., 738; Davis vs. Gray, 16 Wall, 203; Tomlinson vs. Branch, 15 Wall, 460; Litchfield vs. Webster County, 101 U. S., 773; Allen vs. Baltimore and Ohio Railroad, 114 U. S., 311; Board of Liquidation vs. McComb, 92 U. S., 531; Poindexter vs. Greenhow, 114 U. S., 270."

Penoyer vs. McConnaughy above cited.

We regard this case as conclusive of the questions in the case at bar, and ask for its careful consideration by the Court.

Its doctrine was affirmed in 149 U. S., pages 164 to 191. We quote from pages 190-191, as follows: "The object of this petition was, we repeat, to protect the property, but even if it were regarded as a plenary bill in equity properly brought for the purpose of testing the legality of the tax, we ought to

add that in our judgment it would not be obnoxious to the objection of being a suit against the State. It is unnecessary to retravel the ground so often traversed by this Court in exposition and application of the eleventh amendment. The subject was but recently considered in Penoyer vs. McConnaughy, 140 U. S., 1, in which Mr. Justice Lamar, delivering the opinion of the Court, cites and reviews a large number of cases. The result was correctly stated to be that where a suit is brought against defendants who claim to act as officers of a State, and, under color of an unconstitutional statute, commit acts of wrong and injury to the property of the plaintiff, to recover money or property in their hands unlawfully taken by them in behalf of the State; or, for compensation for damages; or, in a proper case, for an injunction to prevent such wrong and injury; or, for a mandamus in a like case to enforce the performance of a plain legal duty, purely ministerial; such suit is not, within the meaning of the amendment, an action against the State.

"And while it was conceded that the principle stated by Chief Justice Marshall in the leading case of Osborne vs. Bank of the United States, 9 Wheat., 738, that 'in all cases where jurisdiction depends on the party, it is the party named in the record,' and that, 'the eleventh amendment is limited to those suits in which a State is a party to the record,' had been qualified to a certain degree in some of the subsequent decisions of this Court; yet it was also rightly declared that the general doctrine there announced, *that the Circuit Court of the United States will restrain a State officer from executing an unconstitutional statute of the State, when to execute it would be to violate rights and privileges of the complainant that had been guaranteed by the Constitution, and would do irreparable damage and injury to him, has never been departed from.*

"The views expressed in United States vs. Lee, 106 U. S., 196; New Hampshire vs. Louisiana, 108 U. S., 76; In re

Ayers, 123 U. S., 443; Hans vs. Louisiana, 134 U. S., 1 McGahey vs. Virginia, 135 U. S., 662 and numerous other cases, rendered further discussion unnecessary."

In the case of Tindal vs. Wesley, 167 U. S., page 204, above cited, the Court, in deciding the case, at page 220, said: "We are of the opinion that this suit is not one against the State within the meaning of the eleventh amendment, and as the record before us shows that the plaintiff owns the premises and is entitled to possession as against the defendants, the judgment must be affirmed." Here also the Osborn case is reaffirmed.

In 172 U. S., 527, Fitts vs. McGhee, the Court again cited with approval the case of Osborn vs. Bank of United States, and refers to the Penoyer case in 140 U. S., page 1, and other pages. We quote from pages 529 and 530, as follows: "Upon examination it will be found that the defendants in each of those cases were officers of the State, specifically charged with the execution of a State enactment alleged to be unconstitutional, but under the authority of which, it was averred, they were committing or were about to commit some specific wrong or trespass to the injury of the plaintiff's rights. *There is a wide difference between a suit against individuals, holding official positions under a State, to prevent them, under the sanction of an unconstitutional statute, from committing by some positive act a wrong or trespass, and a suit against the officers of a State, merely to test the constitutionality of a State statute, in the enforcement of which those officers will act only by formal judicial proceedings in the Courts of the State.*"

In the case of Gregg vs. Sanford, 65 Fed. Rep., p. 151, decided by the Circuit Court of Appeals for the 3rd circuit, in January, 1895, it was held that a suit brought against an officer of the State charged with the duty of assessing and collecting taxes, to restrain him from levying against the com-

plainant taxes not authorized by law, is not a suit against the State.

The case of Smith vs. Reeves, 178 U. S., 436, is not in conflict with the cases we have cited. In that case Reeves was sued *as Treasurer* of the State of California for the purpose of *compelling him to pay out of the treasury of the State of California a sum of money.* Authorities almost universally hold that where a suit is against the State or some officer of the State for the purpose of compelling the performance of a contract and in many cases to recover back money paid out or to compel the payment of money, it is against the State and within the prohibition of the eleventh amendment to the Constitution. But the case at bar is not such a case.

The case of Illinois Central R. R. Co. vs. Adams, 180, U. S., 28, was a case where a bill in equity was filed by the Railroad Company vs. Wirt Adams, Revenue Agent, a citizen of the State of Mississippi. The question as to whether or not it was a case against the State is discussed on pages 27 to 39.

It was there held that the question as to whether it was against the State or against an individual should be raised by demurer or by other pleadings, instead of by motion. But we submit that, while the defendant has demurred in this case, under the effect of previous decisions herein cited, this suit can be maintained.

We insist from this review of authorities above cited, both State and Federal, that this amended bill of complaint in which we are entitled, under the special prayer, as well as the prayer for general relief, to an injunction, restraining the Auditor General of the State of Michigan and his successors in office, and the several County Treasurers and their successors in office from selling, alienating or in any way disposing of the complainant's lands, to enforce invalid and void taxes against them, is maintainable.

We desire now to direct the attention of the Court to the merits.

Were the Legislature to enact that one man should pay all the taxes of the State, the law would be immediately pronounced illegal and unconstitutional. So self evident would its illegality be that its terms have only to be stated to be condemned.

Extreme as this statement is, it is an accurate statement of the operation of the General Tax Law of the State of Michigan. There is no authority for the collection of taxes in Michigan except the Constitution and the statute.

"A tax cannot be collected if not authorized by written law."
Folkerts vs. Power, 42 Mich., 283.

Every essential proceeding in a tax levy must be taken in conformity with the requirements of law, and must appear in some written and permanent form in the records of the bodies authorized to act upon them, a parol levy of taxes not being legally possible under the laws of the State of Michigan.

Palmer vs. Rich, 12 Mich., 414.
Moser vs. White, 29 Mich., 60.
Mills vs. Township of Richland, 72 Mich., 100.

The Constitution requires, as we have shown in the statement of the case, that the Legislature provide annually for the deficit in the resources. This is a Constitutional requirement, (Art. 14, Sec. 1), and cannot be altered or disobeyed by the Legislature. It is presumed that the Legislature and the officers of the State and its municipalities observe the requirements of law. Each year, then, the Legislature and State officials include in the general amount that must be raised by taxation the unpaid taxes of the previous year. Neither the

State nor its officers will be heard to say that it does not do so, because the Constitution imposes the duty. As a matter of fact it is done. And, in the same manner, the Counties, Townships, Cities, Villages, in short, all the municipalities of the State, include each year in the general amount to be raised by taxation as part of the taxes, the amount of the deficiency arising from the unpaid taxes of the previous year.

This means that in each succeeding year those who have paid their proportion of the taxes of the previous year pay an additional proportion of the same taxes, because the deficiency of the previous year, being included in the general amount to be raised by taxation, is levied generally and is assessed upon those who have paid as well as those who were delinquent. Thus one township makes up the deficiency occurring in another township, and one county the deficiency in another county.

If it were a fact that only one township, county, or person, in the State of Michigan, paid taxes, the operation of the law as we have pointed it out would result in that township, county or person eventually paying all the taxes of the state. The system is tolerated and the wrong concealed, simply because the iniquity is widely distributed, both as to persons and amount.

We are likely to be met here with the objection, How can you remedy this system? We submit that it is no part of our duty to supply a remedy, even though we have destroyed the existing law. In this case, however, the remedy is so obvious, equitable, and easy of accomplishment, that we suggest it in order that we may meet all possible objections: *The percentage of deficiency can easily be ascertained, and if to the total amount to be raised by taxation, an amount equal to that percentage is added, then everyone would contribute equally to the deficit as well as to the other funds to be raised by taxation,*

and the deficiency or deficit and penalties for its non-payment would then fall upon those to whom it properly belongs, viz the delinquents, instead of upon him who has paid promptly.

We have pointed out that the Legislature has construed the Constitutional term, "cash value," and we submit that apart from such construction by the Legislature being an usurpation of judicial functions, it is a wrong and illegal construction of that term. The framers of the Constitution intended, by requiring property to be assessed at its cash value, to establish a standard method of assessment which would be general throughout the State.

"Cash value" ordinarily, we think, means the price which property will bring at a forced or public sale. It is common knowledge and the Court will take judicial notice of the fact, that in such a State as Michigan much property is being disposed of continually at forced or public sale. To permit an Assessing Officer to say that that property may bring more at a private sale is to permit him to discriminate in the assessment of all property. In other words, the Legislature has attempted to evade the Constitutional provision and, by the construction which we have quoted, permitted every assessing officer to fix his own standard of value.

Appellant's lands were assessed at five dollars per acre, when they had cost only sixty-two and a half cents (62½c) per acre, and when he was offering to sell them for two dollars, one dollar and seventy-five cents, and finally one dollar and a half per acre and was receiving offers for them of only one dollar per acre. Such an assessment is void. The defendants admit that that void system was employed with reference to Appellant's lands.

The General Tax Law provides that before the property of any citizen is assessed, the Assessing Officer shall obtain from

him a sworn statement of his property, to be used as the basis of making the assessment. After the assessment is made and the tax is levied, the Collecting Officer is required, by law, to demand payment from the taxpayer personally, and, before returning the taxes unpaid, is required by law to seize so much of the personal property of the taxpayer as is sufficient to pay all taxes assessed against him. All of these provisions are for the benefit of the taxpayer.

Merritt Chandler, in all of the municipalities involved, had at all times more than sufficient personal property to satisfy all demands against him for taxes; but in no instance was any demand ever made upon him for a statement, for payment, or any seizure made of his property for taxes.

Where lands have been sold for non-payment of taxes every pre-requisite required by law must be complied with. Provisions for the benefit of the taxpayer are mandatory, not merely directory, and must be observed.

Williams vs. Peyton, 4 Wheaton, 77.
Thatcher vs. Powell, 6 Wheat. 127.

It may be objected that we are here complaining of non-compliance with statutory proceedings and at the same time attacking that statute as unconstitutional. In other words, that we are at one and the same time claiming that the law is void and objecting that its provisions have not been complied with.

One can best grasp the case made by the bill if he will bear in mind that we have alleged grounds upon which we claim the law is illegal and unconstitutional, and have also alleged grounds independently of the unconstitutional law, showing that the law was rendered unconstitutional by the methods in which it was administered.

New York vs. Lever, 100 U. S., 539.

In showing the non-compliance of the officers of the State with the requirements of the Tax Law, we are in reality only supporting by additional evidence the claim that Appellant is deprived of his rights and property, contrary to the Federal Constitution, particularly the 14th Amendment thereof.

We have shown that, in the Counties in which these lands are situate, upwards of four and a half million ($4,500,000.00) dollars of personal property was intentionally and fraudulently omitted annually from the tax rolls. The ommission of this large amount of taxable property threw a greater burden upon Appellant and his property and increased the amount of taxes assessed against him annually. This fact is not and cannot be controverted. The demurrers admit it. Since the appointment in 1899, of a Board of State Tax Commissioners, an elaborate investigation has been conducted into the conditions of taxation in the State of Michigan. We quote as follows from the first annual report of the Board of State Tax Commissioners, for the year ending December 15, 1900:

"Probably not one dollar in five hundred on deposit in the banks of Michigan is reached by the Assessor for taxation, and never has been.

"It is doubtful if a half million dollars, in the whole State, was assessed upon deposits in private, State or National banks. By the report of the State Bank Examiner, there was upon deposit in the State and National banks of Michigan, including three Trust Companies, at near the same time, $149,353,311.37, and this amount had increased to $160,876,409.33 on September 5, 1900.

"It will thus be seen that to execute the law fully in these cases would be grossly unjust. Such injustice, however, cannot be chargeable to the State. There are many elements entering into it."

Report, pp. 21 and 22.

"There is certainly no justification for this favoritism now shown." (Page 25, referring to the exemption of Building and Loan Association stocks.)

"The practical results of the working of the Commission may be sumed up in the statement that $350,000,000.00 more of property appears upon the assessment rolls of the State for this year than ever before in her history; and we venture the assertion that this sum could legitimately have been advanced many millions more had there been more time to work out the conditions before the law compelled the assessment of properties to be closed." (Report, pp. 119 and 120.)

"The evil of undervaluation or overvaluation is the far greater crime when wilfully made, because it almost directly steals from the one to pay the other's taxes." (Report, p. 130.)

The report, which is an official document of the State, is a body of evidence substantiating the claim we here make. How unjust then would it be to deprive Appellant of his property which is visible, fixed, and the first to attract taxation, when he is the victim of the oppression which this report gives in detail. No words of ours can picture the ineffectiveness of the system better than these of the Commission: "It will thus be seen that to execute the law fully in these cases would be grossly unjust." An avowal by the highest taxing authority that the law is purposely disobeyed and persons and property selected for taxation. *Official legislation.*

There is no attempt made by the laws of the State of Michigan to classify property for taxation. In making assessments, property is described as real or personal, as the case may be; but the same rate of taxation is applied to both classes of property alike. Such a jumbling of property together for taxation is unconstitutional. The Court will take judicial notice of the fact that the uses of property are different, and to tax deposits in a bank, upon which interest at the rate of three per cent. per

annum is paid, at the same rate as improved real estate, the value of which is determined by the income it yields over and above taxes, depreciation, and interest on the investment, and where the average tax rate is two per cent, is discrimination in favor of one class of property as against another, and amounts to confiscation.

"A system which imposes the same tax upon every species of property, irrespective of its nature or condition or class, will be destructive of the principles of uniformity and equality in taxation and of a just adaptation of property to its burdens."

Pac. Ex. Co. vs. Seibert, 142 U. S., 339 at p. 351.
W. U. Tel. Co. vs. Indiana, 165 U. S., 304.

The General Tax Law requires the Circuit Court, sitting as a Court of special and limited jurisdiction, to enter a decree against all lands against which no objections have been filed. *The Court has no discretion in the matter.* It is a common thing to find in the tax record, which contains the proceedings of the Court in these tax cases, that objections have been sustained to a tax against one description of property in a township and a decree entered for the taxes against the remaining descriptions, where the objections sustained invalidated the entire tax. Yet under the General Tax Law, the Court was compelled to enter a decree for taxes which the Court knew to be illegal. This substitution of the Legislative will for judicial determination is one of the most dangerous and unwarrantable invasions of the rights of the citizen.

"The Court of Chancery has only such jurisdiction in tax proceedings as the Statute gives it."

Conn. Mut. Life Ins. Co. vs. Wood, 115 Mich., 444 p. 452.

The history of taxation in Michigan shows that previous to 1882 no attempt was made to have a judicial determination of

the validity of the taxes before the sale. It was left for the purchaser to fight out the validity of his title with the owner of the original title. In 1882 a law was passed providing for a judicial determination of the legality of the tax before sale, but by a divided Court, that Act was nullified. (Tax cases, 54th Mich.)

In 1885 the Legislature re-enacted the previous system of simply advertising the lands for sale. In 1889 the law was again changed and provision made for personal service. This was abandoned in 1891, and in 1893 the present system was adopted.

Under the law of 1893, a notice is published that the Auditor General will ask a decree against the lands mentioned in the notice for the amount of taxes stated, which are claimed to be a lien upon the land, and the lands will be sold for the taxes, on the first Tuesday in May following.

This notice is the only process in the case, and as we have pointed out, it does not run "In the Name of the People of the State of Michigan," as required by the Constitution. Not only is it defective as process, but the whole proceeding gives the State special standing and advantages as a suitor.

"When the State, as plaintiff, invokes the aid of the Court of Equity, it is not exempt from the rules applicable to ordinary suitors, that it must establish a case of equitable cognizance and a right to the particular relief demanded."

People of New York vs. Canal Board of New York, et al., 55 N. Y., 390 at page 395.

If it is true that the State can not create a special procedure for itself, and have a special standing as a suitor, it is equally true that it cannot drag Appellant and other citizens into Court by a mere public notice in lieu of process.

23738

When the Constitution of the State of Michigan was adopted, and when the Fourteenth Amendment to the Federal Constitution was ratified by the State of Michigan, it was no part of the policy of the State to enforce collection of its taxes as attempted under the law of 1893.

The creation of the special tribunal to hear the tax cases is not an exercise of a special prerogative of the State. The prerogative of the State in tax matters extends only to the assessment of the property, the levy of the tax, and the sale of the land after due notice given, as was done under the law previous to 1882.

The method of sale of lands for taxes adopted by the State discriminates against the owner. The lien of the State for taxes is sold to him who will take the least undivided interest in the lands and pay the tax. No one, of course, does this, for no one wishes to become a tenant in common with the owner of the original title. If no one will take the undivided interest, then the entire parcel is sold for the tax assessed against it. This system of selling the land necessarily discourages bidding and does not realize for the owner the best price for the land.

By reference to Section 19 of the General Tax Law, heretofore quoted at length, (this Brief pp. 4-6), it will be seen that individuals cannot deduct indebtedness except from credits, while companies or corporations, including partnerships, can deduct indebtedness from the total valuation of their personal property. Here is an evident discrimination in favor of corporations as against individuals. But, if the individual or company happens to be the owner of vessels and marine property, then the indebtedness may be deducted from the total value of all the property.

Appellant shows that he is indebted in respect of his said lands to the amount of fifty cents per acre; but, under the

law, he cannot have this deducted from the total value of his property, and have the balance assessed as real estate. If, however, his real estate were in the form of docks and other marine property, he could make such deduction. Or, if he organized a company to hold said lands, he could through the agency of the corporation deduct his indebtedness from the personal property of said company and thus relieve his real estate.

Such arbitrary exercise of power is unconstitutional.

"It is not competent for the Legislature under the 14th Amendment to classify lands for purposes of taxation into lands owned by railroad companies and lands owned by all other persons and declare that the former should not and the latter should be taxed."

Railroad Company vs. Walker, 47 Federal Reporter, 681.

The section of the statute we have quoted is directly within the condemnation of the principle here enunciated.

The printing of the tax lists is paid for at an extravagant price. We have shown that the Constitution of the State of Michigan requires all printing for, or ordered by, the Legislature, to be let by contract to the lowest bidder. The printing of the tax notices, being authorized by the General Tax Law, is, we submit, printing ordered by the Legislature. If that printing were let by contract, it would probably be done for five cents per description As it is, the Auditor General, under authority of law, pays forty cents per description for such printing, and selects the newspaper in which it shall be done. In other words the public funds can be diverted for partisan purposes.

Although the entire expenses of the administration of the State are provided for by taxation, yet, against each descrip-

23739

tion of land a dollar is charged for cost of advertising and expenses of sale, and, in addition, a collection fee is added.

All of these charges are, we claim, double taxation and discriminate against the man against whom they are charged, and render the law unconstitutional.

We have referred to "homestead lands." These are lands bid to the State on which the taxes have remained unpaid for three years. They are subject to entry as homestead lands. The taxes due the Township, County and State are cancelled and the lands are sold to the homesteaders for ten cents an acre, conditioned upon five years continuous residence and improvement. The State, previous to the filing of the bill, not only cancelled the taxes due the Townships and County from said lands, but appropriated the whole of the purchase price. This threw upon the remaining lands subject to taxation an additional burden equal to the taxes cancelled, and forced the owners thereof to contribute an additional portion of a tax of which they had already paid their proportion. Since this bill was filed the law has been changed, so that now the purchase price is divided among the State, County, and Township, in proportion to the amount of taxes due each. (This Brief, p. 18). This amendment of the law would seem an admission of the force of Appellant's objection.

The General Tax Law pretends to give the owner of lands notice after the period of redemption expires with the privilege of discharging the tax lien by payment of 100 per cent, together with costs and expenses, to the purchaser of the tax-title. The purchaser of the tax-title is to serve the notice "upon the grantee or grantees under the last recorded deed in the regular chain of title to said land and upon the mortgagee or mortgagees named in all undischarged recorded mortgages

or any assignee thereof" (General Tax Law 1893, Sec. 140); but this notice may be served by registered mail or publication in case the Sheriff of the County where the land is situate returns that the person named in the notice cannot be found or his postoffice address ascertained. Such a notice is a farce. It does not necessarily reach the owner of the land. It does not take into account the rights of a person in possession. There is no duty resting upon any one to record his deed. Such a notice served upon the grantor of a person who has not recorded his deed might be responsible for the grossest fraud by collusion between the tax-title purchaser and former grantor. This provision of the law is not calculated to benefit anybody but the dealer in tax-titles. The provision is of doubtful validity for other reasons. It undertakes to control private property in the hands of the owner and by Legislative enactment transfer property from one citizen to another.

It is objected that if the laws are void, then the titles acquired or asserted under them are of no force and it is unnecessary to declare them invalid or set them aside.

There is no force in such an objection. They remain a cloud upon Appellant's title, which he is entitled to have removed. And defendants are insisting and asserting that all such proceedings and titles are constitutional and valid.

Void assessments can never become the basis of a valid decree.

Without a valid assessment no subsequent steps can have any color or validity.

Blackwell on Tax Titles, (5th Ed.) Sec. 194.
Black on Tax Titles, Sec. 89.

"An invalid decree of sale for taxes should be annulled by reversal instead of being permitted to stand as a null decree. And both parties should be placed in the condition in which

they would have been if no proceedings in Court had been taken."

State of Michigan vs. Eddy, 58 Mich., 318.

"Where tax deeds appears upon their face to be clouds upon the plaintiff's title, a bill in equity is the proper form of obtaining relief."

Gage vs. Kaufman, 133 U. S., 471.

The Act gives the Auditor General, a purely administrative officer, power and authority by issuing Certificates of Error to cancel deeds without a hearing and upon evidence satisfactory to him.

This legislation cannot be justified. To cancel a deed is the highest exercise of judicial power apart from holding a law unconstitutional.

We could continue at length the particulars of this indictment against the General Tax Law of the State of Michigan. We think, however, that we have pointed out defects enough going to the whole administration of the tax law to entitle us to a decree that the law is unconstitutional.

Even if the changes made in the law since the bill was filed in this case have remedied some of the defects, others remain, and even if tax titles, acquired since the law has been so changed, are valid, still all tax titles for sales previous to the filing of the Bill must be declared invalid.

The Court will look to what the law requires—not to what may be done under it.

P. C. C. & St. L. Ry. vs. Backus, 154 U. S., 421.

For example, since this Bill was filed, an opinion has been rendered by the Attorney General of the State that Section

19 (found in full on pages 4-6 of this Brief), is in effect unconstitutional for the reasons that we have given, and he has instructed the Assessing Officers of the State to disregard it. Consequently it has been disregarded; but there has been no repeal of the section or amendment of it by the Legislature. We quote from the opinion:

"The amount of the Seventh Item shall be deducted from the amount of the Fourth Item, and the balance, if any, assessed as the cash value of the personal estate. The amount of the Sixth Item shall be deducted from the amount of the Fifth Item, and the balance, if any, assessed as personal.

"This is a General Rule authorized by the Legislature for the purpose of ascertaining the personal property of a corporation for purposes of taxation where no other method is expressly provided for in the General Tax Law, which in substance is a double rule for ascertaining the amount of the personal estate. In my opinion the Assessing Officer has authority to resort to either of these rules for the purpose of determining the personal estate, but not to both. In other words, the Assessing Officer would have no authority to deduct the amount of the Seventh Item from the amount of the Fourth and add the amount, so obtained, to the Fifth Item after deducting the Sixth. This, of course, is the General Rule applying to associations incorporated and unincorporated, but where in the General Tax Law the Legislature has expressly provided how the property of certain corporations shall be assessed, then in that case the special provision governs.

"Section 19 is but a small part of the General Tax Law and in placing a construction upon it we must consider the whole Act in so far as its several sections bear upon the particular point under consideration, and no literal construction can be resorted to that in any way violates the clear intent of the Legislature. It is only necessary to call your attention to the provisions of Section 22 to show that the Assessing Officer is not bound by any of the sworn statements made in accordance with Section 19, and may resort to other means for the purpose of obtaining the requisite information in order to

make a just and lawful assessment. It is also clear that there are certain minor inconsistencies in said Section 19 contained, when it is considered in the light of certain other sections of said law, and whenever it conflicts with or contravenes any of the express provisions of saidAct in regard to the manner of making the assessment, the provision stating of what personal property shall consist and the exemptions provided for, then and to the extent of such contravention, it must give way to the more important and express provisions of the statute."

Opinion of the Attorney General, (Detroit Legal News,) April, 1900.

Nothing could better illustrate the hopeless confusion in which this General Tax Law involves the Officers and Assessors than this opinion of the Attorney General. *It is another instance of Official or Executive Legislation.*

Since the above opinion was rendered, the Supreme Court of the State of Michigan, held Section 19 unconstitutional and void because it provides for doubly taxing the property of corporations; but the objections we make have not been considered and as they go to the whole Act, the unconstitutionality of this Section, which the defendants must admit, extends to and nullifies the entire Act.

Citizens St. Ry. Co. vs. Common Council, 125 Mich., 673, at p. 694.

This being the case, it follows that the whole Act is unconstitutional, because we are forced to the conclusion that the Legislature would not have adopted the Act had it known or thought the provisions of Section 19 could not be enforced, and we cannot do better than quote, in support, the following language of Mr. Justice Harlan, from Connolly, et al., vs. The Union Sewer Pipe Company, where the Illinois Anti-Trust Law was before the Court:

"The principles applicable to such a question are well settled by the adjudications of this Court. If different sections of a Statute are independent of each other, that which is unconstitutional may be disregarded, and valid sections may stand and be enforced. *But if an obnoxious section is of such import that the other sections without it would cause results not contemplated or desired by the Legislature, then the entire Statute must be held inoperative.* The First Section of the Act, here in question, embraces by its terms, *all* persons, firms, corporations or associations of persons who combine their capital, skill, or acts, for any of the purposes specified, while the Ninth Section declares that the Statute shall not apply to agriculturalists or live stock dealers in respect of their products or stock in hand. If the latter section be eliminated as unconstitutional, then the Act, if it stands, will apply to agriculturalists and live stock dealers. Those classes would in that way be reached and fined, when, evidently, the Legislature intended that they should not be regarded as offending against the law, even if they did combine their capital, skill or acts in respect of their products or stock in hand. Looking, then, at all the sections together we must hold that the Legislature would not have entered upon or continued the policy indicated by the Statute unless agriculturalists and live stock dealers were excluded from its operation and thereby protected from prosecution. The result is that the Statute must be regarded as an entirety, and in that view it must be adjudged to be unconstitutional as denying the equal protection of the laws to those within its jurisdiction who are not embraced by the Ninth Section."

Connolloy vs. Union Sewer Pipe Co., 184 U. S., 540, at p. 565.

23742

Mutatis mutandis, the same remarks are applicable to the Michigan Tax Law. In the case of Connolly vs. Union Sewer Pipe Company, the Anti-Trust Law of Illinois was held unconstitutional, for the reason that the persons protected by Section Nnie would, unless the whole Act were held unconstutional, come within and under the remaining provisions of the Statute; and so in this case of Chandler vs. Auditor General, if Section 19 of the Act be stricken out, without declaring the whole Act void, then those persons whose assessment is fixed by Section 19 are deprived of the benefit of that section and must come within the other and remaining provisions of the Tax Law, although the Legislature, by Section 19, plainly exempted them from the operation of the other sections of the law.

This case at bar is based entirely upon violations of fundamental principles, so sacred that they are subject of constitutional protection.

Upon the important questions involved in this suit the decisions of the State Courts are not controlling, for the reason that, apart from the Federal questions, only questions of general law are discussed; and the Federal Courts will determine those questions for themselves without reference to the decisions of the State Court.

"Now, whether a use is public or private, is not a question of constitutional construction. It is a question of General Law. It has as much reference to the Constitution of any other State as it has to the State of Wisconsin. Its solution must be sought, not in the decisions of any single State tribunal, but in general principles common to all Courts. The nature of taxation, what uses are public and what are private, and the extent of unrestricted Legislative power, are matters which, like questions of commercial law, no State Court can conclusively determine for us."

Olcott vs. Fond du Lac, 16 Wall., 678.

The above language of the United States Supreme Court was used in overruling Whiting vs. R. R. Co. and Whiting vs. Fond du Lac, 25 Wis., 167.

We submit, therefore, that not only have we made out a case in equity entitling the Appellant to relief, but we have also presented such a case as overcomes all technical defences such as have been urged here by demurrer and that the grounds of demurrer, for the reasons we have given, should not prevail. And we ask that the decree of the Circuit Court of the United States be reversed, and that a decree be entered here for the Appellant, or the case remanded for further proceedings.

JOHN A. McKAY,
Solicitor and of Counsel for Merritt Chandler, Appellant.

GEORGE W. WEADOCK,
Of Counsel for Merritt Chandler, Appellant.

FILE COPY.
MAY 19 1904

Supreme Court of the United States.

OCTOBER TERM, 1903.

MERRITT CHANDLER,
Appellant.
vs.
ROSCOE D. DIX, Auditor General of the State of Michigan, et. al.
Appellees.

No. 261

Appeal from the Circuit Court of the United States for the Eastern District of Michigan, Northern Division, In Chancery.

BRIEF FOR APPELLANT, IN REPLY.

JOHN A. McKAY,
Solicitor and of Counsel for Appellant.

GEORGE W. WEADOCK,
Of Counsel.

SHEMANN & PETERS, PRINTERS AND BINDERS, SAGINAW, MICH.

23744

Supreme Court of the United States.

OCTOBER TERM, 1903.

MERRITT CHANDLER,
Appellant.

vs.

ROSCOE D. DIX, Auditor General of the State of Michigan, et. al.
Appellees.

No. 261

Appeal from the Circuit Court of the United States for the Eastern District of Michigan, Northern Division, In Chancery.

BRIEF FOR APPELLANT, IN REPLY.

This case seems to turn upon the point whether it is an action against the State.

Appellant claims that under the authorities it cannot be considered a suit against the State: but that it is against private individuals attempting to justify their action under unconstitutional laws.

We cannot do better than quote the decisions of this Court in support of our position.

"The case, then, of the plaintiff below is reduced to this. He had paid the taxes demanded of him by a lawful tender. The defendant had no authority of law thereafter to attempt to enforce other payment by seizing his property. In doing so he ceased to be an officer of the law and became a private wrongdoer. It is the simple case in which the defendant, a natural private person, has unlawfully, with force and arms, seized, taken and detained the personal property of another."

Virginia Coupon Cases, Poindexter vs. Greenhow, 114 U. S., 270 at pp. 282-3.

"The *ratio decidendi* in this class of cases is very plain. A defendant sued as a wrongdoer, who seeks to substitute the State in his place, or to justify by the authority of the State, or to defend on the ground that the State has adopted his act and exonerated him, cannot rest on the bare assertion of his defence. He is bound to establish it. The State is a political corporate body, can act only through its agents, and can command only by laws. It is necessary, therefore, for such a defendant, in order to complete his defence, to produce a law of the State which constitutes his commission as its agent, and a warrant for his act. This the defendant in the present case undertook to do. He relied on the Act of January 26, 1882 requiring him to collect taxes in gold, silver, United States treasury notes, national bank currency, and nothing else, and thus forbidding his receipt of coupons in lieu of money. That, it is true, is a legislative act of the Government of Virginia, but it is not a law of the State of Virginia. The State has passed no such law, for it cannot; and what it cannot do, it certainly, in contemplation of law, has not done. The Constitution of the United States and its own contract, both irrepealable by any act on its part, are the laws of Virginia; and that law made it the duty of the defendant to receive the coupons tendered in payment of the taxes, and declared every step to enforce the tax thereafter taken, to be without warrant of law, and therefore a wrong. He stands

then, stripped of his official character, and, confessing a personal violation of the plaintiff's rights, for which he must personally answear, he is without defence."

Virginia Coupon Cases, Poindexter vs. Greenhow, 114 U. S., 270 at p. 288.

Defendants meet this proposition by citing the cases of Burrill vs. Auditor General, 46 Mich., 256 and Smith vs. Reeves, 178 U. S., 436.

Neither of these cases is the same as the case at bar either in fact or in principle. Both cases contain statements distinguishing them from the case at bar.

We call the attention of the Court particularly to the following language in Burrill vs. Auditor General cited above.

"This is *not* a case where tax proceedings are still going on and a claim is made that they are tainted with fraud *or that some officer has either acted in an unauthorized or illegal manner or is about doing so.*"

The italics are ours.

Appellant, on the contrary, claims that the proceedings in this case are tainted with fraud, that the defendants have acted in an unauthorized and illegal manner and threaten to continue doing so.

In that case (Burrill vs. Auditor General) the validity of the tax proceedings was attacked for non-compliance with a law which was treated as constitutional, at least was not alleged to be unconstitutional. The Court thus state it—"The objection which is insisted on against the title acquired by the State is that the Assessor's certificate was in each year

fatally defective." The law required the Assessor to certify to his assessments and this he had done but the certificate was evidently not in the form, or did not contain the requisites, prescribed by the Statute. That case covered only irregularity of official action not want of power or authority in the official. There was then, as the Court expressly states, no question of illegal action or unconstitutional authority involved.

The gist of the case at bar is the unconstitutionality of the law and the system under which taxes have been levied on Appellant's lands, and is based upon compliance with an unconstitutional law. He charges.

"That said laws are unconstitutional and void and confer no authority on said Auditor General and said County Treasurers or his or their predecessors, agents and purchasers from him or through them for the reasons hereinafter more specifically set forth."

Amended Bill of Complaint, Sec. 6, R. p. 87.

Under such unconstitutional laws it is the duty of the Auditor General to offer the lands for sale, of the County Treasurers to bid them in for the State if not purchased by others, and of the Auditor General to control their sale and disposition thereafter. In the case of Lee vs. United States, 106 U. S., 196, the title acquired by the United States at the tax sale where, "at this sale the land was bid in by said Commissioners (officers of the United States) for the United States" etc. was involved; and it was there held that a Court of competent jurisdiction may enquire into the lawfulness of the possession of the United States and the steps taken by its officers and agents to acquire such possession and give judgment according to the result of that enquiry.

The immunity of the State in this regard is no greater than that of the United States.

The same reasons exist for the Court's retaining jurisdiction in this case as in the case of United States vs. Lee; and to decline jurisdiction in this case would be to overrule United States vs. Lee and all cases of that class.

Similarly Smith vs. Reeves, 178 U. S., 436 is by the Court in rendering decision, distinguished from the case at bar.

The Court say:—

"Although the State, as such, is not made a party defendant, the suit is against one of its officers *as Treasurer;* the relief sought is a judgment against that officer *in his official capacity;* and that judgment would compel him to pay out of the public funds in the treasury of the State a certain sum of money. Such a judgment would have the same effect as if it were rendered directly against the State for the amount specified in the complaint."

Smith vs. Reeves, 178 U. S., 436 at p. 438.

The Italics are the Court's.

The above part of the opinion is quoted by Counsel for Appellees on page 35 of his Brief but the following important statement of the principle we are discussing, which in the opinion immediately follows the foregoing, is omitted.

"This case is unlike those in which we have held that a suit would lie by one person against another person to recover possession of specific property, although the latter claimed that he was in possession as an officer of the State and not otherwise. In such a case the settled doctrine of this Court is that the question of possession does not cease to be a judicial question—as between the parties actually before the

Court—because the defendant asserts or suggests that the right of possession is in the State of which he is an officer or agent. *Tindel vs. Wesley*, 167 U. S., 204, 221, and authorities there cited."

Smith vs. Reeves, 178 U. S., 436 at p. 438.

We do not seek to compel the State to perform any act; but within the very exception made by both the State and Federal Courts in the two cases of Burrill vs. Auditor General and Smith vs. Reeves relied upon by Appellees, we do seek to enjoin the defendants from doing some positive and affirmative injury to the Appellant in his person and property by enforcing the unconstitutional law we complain of.

No better answer to the argument of Appellees can be given than is found in the Virginia Coupon Cases commenting on the case of United States vs. Lee, than which, the Court there say no better example of this principle can be found:—

"It was decided by this Court that to sustain the defence and to defeat the plaintiff's cause of action, it was necessary to show that the defendants were in possession under the United States, and on their behalf, by virtue of some valid authority. As this could not be shown, the contrary clearly appearing, possession of lands actually in use as a national cemetery was adjudged to the plaintiffs."

Poindexter vs. Greenhow, 114 U. S., 270 at p. 289.

"It is still urged upon us, however, in argument, that notwithstanding all that has been or can be said, it still remains that the controversy disclosed by the record is between an individual and the State; that the State alone has any real interest in its determination; that the practical effect of such

determination is to control the action of the State in the regular and orderly administration of its public affairs; and that therefore, the suit is and must be regarded as a suit against the State, within the prohibition of the Eleventh Amendment to the Constitution."

* * * * * * * * * *

"The thing prohibited by the Eleventh Amendment is the exercise of jurisdiction in a "suit in law or equity commenced or prosecuted against one of the United States by citizens of another State." Nothing else is touched; and suits between individuals, unless the State is the party, in a substantial sense, are left untouched, no matter how much their determination may incidentally and consequentially affect the interests of the State, or the operations of its government. The fancied inconvenience of an interference with the collection of its taxes by the government of Virginia, by suits against its tax collectors, vanishes at once upon the suggestion that such interference is not possible, except when the government seeks to enforce the collection of its taxes contrary to the law and contract of the State, and in violation of the Constitution of the United States."

Idem pp. 296-7.

This Court has frequently enforced this principle. The principle case are

Dow vs. Chicago, 78 U. S., 108.

Ogden City vs. Armstrong, 168 U. S., 224.

In Fargo vs. Hart, Auditor of the State of Indiana, decided at the present term (Mar. 21. 1904) the Court say:—

"The assessment being bad, for the reasons which we have stated, the board of tax commissioners acted without juris-

diction, according to the decision of the Supreme Court of Indiana. *Hart vs. Smith,* 159 Ind., 182, 58 L. R. A. 949, 64 N. E., 661. We do not abate at all from the strictness of the rule that in general an injunction will not be granted against the collection of taxes. *State Railroad Tax Cases,* 92 U. S., 575, 23 L. ed., 663. But it was recognized in the passage just quoted from *People's Nat. Bank vs Marye,* that under the present circumstances a resort to equity may be proper. The course adopted is the same that was taken without criticism from the Court in *Adams Exp. Co. vs. Ohio State Auditor,* 165 U. S., 194, 41 L. ed., 683, 17 Sup. Ct. Rep., 305. It avoids the necessity of suits against the officers of each of the counties of the State, and we are of the opinion that the bill may be maintained. *Union P. R. Co. vs. Cheyenne,* 113 U. S., 516, 28 L. ed., 1098, 5 Sup. Ct. Rep., 601; *Pittsburg, C. C. & St L. R. R. Co. vs. Board of Public Works,* 172 U. S., 32, 43 L. ed., 354, 19 Sup. Ct. Rep. 90."

The office of Auditor of the State of Indiana corresponds to that of Auditor General of the State of Michigan. The actions are similar: but the former, although cited as Auditor of the State of Indiana, was not held or considered as standing in the place of the State.

The case is similar to Adams Express Co. vs. Ohio State Auditor, 165 U. S., 194 and all the other cases disposed of in that opinion, and many other similar cases in the reports of this Court too numerous to cite, in which relief by injunction was sought against a state officer, yet in none of those cases was it held that it was an action against the State.

The Supreme Court of the State of Michigan has recognized the distinction between the case at bar and that of Burrill vs. Auditor General *supra,* in the case of The Lake Superior Ship Canal Railway & Iron Co. vs. Henry H. Aplin Auditor General et al, 79 Mich., 351, which was a suit to quiet Complainant's title by the removal of the cloud from its title caused by illegal assessments.

The Court stated the proposition before it thus:

"The only other question is, can complainant maintain this suit to remove the cloud from its title caused by the illegal assessment and levy of such school taxes?"

The defendants had demurred on the ground that the Tax Law itself afforded complainant relief and that he was limited to the relief there specified. The Court overruled the demurrer and answered the above question in the affirmative. The suit was brought, as this is, against the Auditor General and County Treasurer; and the Court say

"We think that the Auditor General and County Treasurer are proper parties to the suit. The former initiates the proceedings for the sale of the lands and the Treasurer makes the sale."

Lake Superior Canal and Ry. Co. vs. Auditor General, 79 Mich., 351 at p. 354.

We also draw the Court's attention to the fact that the case of Burrill vs. Auditor General is reported in the 46th Michigan and was decided in 1881 and that the case of Lake Superior Canal & Rv. Co. vs. Auditor General is reported in the 79th Michigan and was decided in 1890.

The case of Burrill vs. Auditor General is authority for the proposition only that where mere irregularities occur in the administration of the tax law, which is not attacked as unconstitutional, the complainant cannot maintain an independent action to quiet title but is limited to the relief afforded by the law itself. The case of Lake Superior Canal Co. vs. Auditor General is authority for the proposition that where the law or the tax is unconstitutional or illegal the

complainant may maintain a suit, independently of the provisions of the Statute, to quiet his title against the person holding office the same as against any other individual.

The distinction between the two cases is perhaps best illustrated by the opinion of this Court in the case of Ogden City vs. Armstrong, 168 U. S., 224, to which we refer the Court.

The suit cannot be held to be one against the State, if we are correct in our conclusion that the Statute is unconstitutional: and for the purpose of this hearing, the defendants having demurred, it must be considered unconstitutional.

The only ground upon which it could be charged that the suit is one against the State would be that the defendants were acting under and according to the provisions of a valid law of the State; but they are acting under an act which is unconstitutional, which therefore, is not and cannot be a law of the State, and therefore they are stripped of all official character and become to the law and in the eyes of the Court merely private individuals.

Reagan vs. Farmers L. & T. Co., 154 U. S., 362.
Symth vs. Ames, 169 U. S., 466.
L. & N. R. I. & P. Ry, 110 Fed. Rep. 3 at pp. 7 and 8.
Tindall vs. Wesley, 13 C. C. A., 165.

Counsel for Appellees also claim that the action has abated by reason that one Auditor General succeeded another. *The action is planted against the defendants as individuals.* For purposes of description and identification, their official designations are added; but that is mere surplusage. It follows then that the action does not abate.

The case of Warner Valley Stock Co. vs. Smith, cited and relied upon by Appellees, is not a case in point. That was a mandamus proceeding against Smith in his official capacity.

The fact that this case is against individuals claiming authority of an unconstitutional enactment distinguishes the two cases. As this case is against Dix et. al. personally, it is immaterial whether they hold or continue in any official position.

The position, *at worst*, in which Appellant finds himself is this:—that by reason of a fact arising subsequently to the filing of the original bill, viz. that one Auditor General has succeeded another, he may be required or deem it advisable to file a supplemental bill, in order to apprise the Court of the fact that, in order to saddle him with the illegal exactions we have pointed out, a succeeding Auditor General is attemping to enforce this unconstitutional law, has become a tresspasser and liable as such, and Appellant entitled to have his action restrained.

The practice of the United States Courts would seem under Rule 57 of the General Equity Rules to require such a fact, if we wish to take advantage of it, to be set up by such Supplemental pleading.

This Court would in such a case probably follow the same course as the Supreme Court of Michigan in Fisher vs. Holden.

"The difficulty of the complainant's case, however is that this tender of payment and acceptance of the money took place after the bill was filed. It is no part of the case made by the bill, though shown by the proofs. It is also claimed by the defendant's counsel on the argument here that these facts might have been rebutted if they had been made issues by the pleadings. There is some force in this position. If these were matters which might be disposed of by an amendment of the bill, we should feel disposed to treat the bill as amended, and decree the lien of the mortgage discharged by the acceptance of the tender, and also that the deed given on the sale be set aside. But these subsequent transactions, by which

the mortgage lien became discharged, could only have been met by a new bill, or a bill supplemental to the present. To dismiss the bill now, after the time of redemption has expired, would be most inequitable. We shall therefore reverse the decree of the Court below, and remand the case. The complainant may have leave to file a supplemental bill in the Court below setting out these subsequent transactions, the proofs already taken to stand as proofs in the case, with leave to the parties to put in such other proofs relating to the issue thus made as they may deem best."

Fisher vs. Holden, 84 Mich., 494 at pp. 496 and 497.

But the Court may not regard such a course necessary.

The defendants are before the Court in their private and individual capacities. The case can be disposed of as it is now before the Court. The defendants can by no acts of theirs change the Constitution and Statutory provisions of which we complain. They cannot say they do not or will not follow them for they are conclusively presumed to act in accordance with these provisions that we have cited and quoted and of which we complain, until their unconstitutionality has been declared by a Court of competent jurisdiction.

But the parties are before the Court. Powers, Auditor General is represented by the Counsel appearing in this case as much as Dix, Auditor General is. On page 122 of the Record appears a pleading entitled:

"The demurrer of Perry F. Powers, Auditor General of the State of Michigan successor in office of Roscoe D. Dix one of the above named defendants, to the Amended Bill of Complaint of the above named complainant."

This is signed "Perry F. Powers, Auditor General."

If we are correct in our position, the fact that Perry F. Powers calls himself "Auditor General" or claims to act under authority of a statute which is in fact unconstitutional, does not affect the case. The fact remains that if the statute is unconstitutional, Powers cannot clothe himself with official authority or standing by calling himself "Auditor General" or justify under authority of the Statute. It reminds one of Lincoln's epigram that calling a sheep's tail a leg does not make it one. Dix and Powers are then both before the Court in their personal and individual, not official characters.

The words "and successors in office" may be construed to mean the same as a clause charging conspiracy of defendants with persons unknown: or may be treated as surplusage.

Even if Powers, Auditor General, and successor of Dix, Auditor General, were not before the Court (not forgetting that they are as persons and individuals for the official designation is used for the purposes of description and identification) still the Court in disposing of this case would expect all State officers to accept its decision as final and act upon it.

"We have, indeed, a right to presume that such officers, though not named in this suit will, when advised that certain provisions of the act in question have been pronounced unconstitutional by the Court to which the Constitution of the United States refers such questions, voluntarily refrain from enforcing such provisions; but we do not think it comports with well settled principles of equity procedure to include them in an injunction in a suit in which they were not heard or represented, or to subject them to penalties for contempt in disregarding such an injunction. Fellows vs. Fellows, 4 Johns. Ch., 25, citing Iveson vs. Harris, 7 Ves. Jr., 257."

Scott vs. Donald, 165 U. S., 107 at p. 117.

It has been claimed by Counsel for Defendants that while the Court may have jurisdiction as to the lands sold for taxes but not yet declared "Homestead Lands," it has no jurisdiction over the "Homestead Lands." The title to the "Homestead Lands" can be no stronger or other than the Tax Titles on which it is founded. If the law is void, and the various proceedings taken thereunder and other acts performed by the defendants are void, then the case is on all fours with United States vs. Lee (106 U. S., 196) and any title asserted to be in the State by the defendants is no legal reason for judgment not being entered against them for such acts and tresspasses as they have committed under a law which is unconstitutional and void.

Counsel for defendants assume in their argument the constitutionality of the Tax Law. Hence they insist that the Appellant is predjudiced by not having availed himself of the provisions of that law. If, as we assert, the law is void, then we could not be required to resort to its procedure or other provisions.

If we are sustained in our position that the suit is not one against the State and has not abated, and under the authorities our position seems well taken, then we submit judgment must pass against the defendants for by demurring they have admitted facts that establish the unconstitutionality of the statute in question.

The chief particulars in which the law is obnoxious to the Federal Constitution are:

1. By including in the general estimates, and collecting as part of the taxes of a subsequent year by a general levy, the deficiency of the previous year, the property of one is taken to pay the debt of another. (R. p. 90).

As was explained to the Court on the oral argument, it takes about three and one-half years to bring to sale the land delinquent for taxes. By assessing each year the deficiency of the previous year, the delinquent tax is in reality paid more than two years before the sale is held. Nevetheless the Auditor General forces the lands to a sale.

If we have established the unconstitutionality of the law, our relief does not, or should not, depend upon suggesting a remedy. We have stated that to raise in each year a contingent fund equal to the average annual deficit based upon actual experience would remove this objection to the law. Some question has been raised whether this would not in effect be the same thing. It might effect the same result so far as the amount collected is concerned; but it would not be the same in principle.

The difference in principle consists in the difference between paying a tax which is a proportionate part of a given aggregate of which the tax-payer has paid no part, and paying a tax which includes an assessment for part of a previous tax of which the tax-payer has already once paid his full quota.

In the one case the system produces, inevitable inequality: in the other it as inevitably works for and aims at equality. The latter does substantial justice; the former as surely works injustice.

The Court will take judicial notice of the fact that property is constantly changing hands. Where the entire assessment is levied in one year, instead of levying the following year a tax to cover the deficit of the previous year, persons and property are affected similarly. By levying the deficit the subsequent year, those who sell and those who buy may both

be wronged. By such a system the burden is transferred from those on whom it should rest to those to whom it in no sense belongs.

It may be that there is no other way but for the State and its municipalities to look to the property for the tax assessed against it: and wait for its and their money until it is realized and collected from the sale of the lands, without spreading generally the unpaid taxes of individuals. *It is for the Legislature to find and apply the remedy.*

The charge we make against the system is admitted by defendants on page 78 of their brief in the following language.

"Under the Constitution an annual tax is levied for the purposes therein specified. Many people delay in paying taxes, and when the next annual estimate occurs there is a deficiency. *The State requires the ready money and so the annual estimate will include the deficiency.*"

There cannot, we submit, be any justification for a system which thus confessedly takes the property of one to discharge the obligation of another.

2. There is no classification of property for purposes of taxation. (R. pp. 92 & 104.)

As the uses, nature and conditions of property differ, any just system of taxation will take into account its various relations and classify it accordingly for the purposes of taxation.

Any system which does not provide such classification is inherently unequal and unjust.

"No duty rests more imperatively upon the Courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government."

* * * * * * * * *

"It is apparent that the mere fact of classification is not sufficient to relieve a statute from the reach of the equality clause of the Fourteenth Amendment, and that in all cases it must appear not only that a classification has been made, but also that it is one based upon some reasonable ground—some difference which bears a just and proper relation to the attempted classification—and is not a mere arbitrary selection."

Gulf, C. & S. F. Railway vs. Ellis, 165 U. S. 150, at pp. 160 and 165-6.

3. Section 19 of the General Tax Law has since the filling of the bill herein been declared unconstitutional by the State Supreme Court, but for reasons other than we urge. (R. p. 96.)

This case comes to this Court on Appeal from the Circuit Court of the United States, in which it was commenced; and involves only questions that arise under the Constitution of the United States. This Court will treat the case as one of first impression, and, in deciding whether the Federal Constitution has been violated will determine for itself the questions involved.

Exparte Tyler, 149, U. S., 164 at p. 187.

We have in our original Brief pointed out that the intention of the Statute cannot be carried into effect without Section 19; and, with that Section stricken out, the whole Statute must fail.

The reason why Section 19 cannot be dispensed with in construing the law is that it lays down the rules for the guidance of the officers in assessing all property both real and personal. It states the form in which the data shall be collected and how it

shall be assembled to determine individual assessments; and there is no other Section of the law that can be substituted or take its place.

The questions we raise and the points that we make were not raised or considered in the case of Citizens St. R. Co. vs. Common Council, 125 Mich., 694 where Section 19 was held unconstitutional.

Even if for example in Section 8 (C. L., '97 Mich, Sec. 3831) it is provided that "For the purpose of taxation personal property shall include" etc., and in Section 2 (C. L. '97 Mich., Sec. 3825) it is provided that "For purposes of taxation real property shall include all lands within the State" etc., and although in Section 1 (C. L., '97 Mich., Sec. 3824) it is provided "That all property, real and personal, within the jurisdiction of this State not expressly exempted, shall be subject to taxation," yet, in order to construe the meaning of these terms as used in the act and to determine individual assessments, it is indispensable that Section 19 (C. L., '97 Mich., Sec.3842) be read with and modify the other Sections. When the assessor has arranged his data under the different heads directed by Section 19, he must in pursuance of the requirements of that Section go farther and, by making certain additions and deductions, determine the aggregate of the individual assessment.

In assessing the property of Bankers and Brokers Section 19 provides:

"The aggregate amounts of the seventh and eight items shall be deducted from the aggregate amounts of the first, second, third and fourth items, and the remainder, if any, shall be assessed as moneys. The amount of the fifth item shall be assessed as stocks and bonds, and the sixth item shall be assessed the same as other similar property, and the assessor

shall make a separate entry of each of these amounts (separate from the assessment of real estate) and the whole shall make up the aggregate personal assessment of such person, party or corporation."

In assessing Pawnbrokers Section 19 provides:

"And the amount of the true cash value of all such property, less the amount of consideration or value paid, shall be assessed as the property of such person or corporation."

In assessing the property of Companies or Associations incorporated or unincorporated—that is of corporations and partnerships, Section 19 provides:

"The amount of the seventh item (real estate) shall be deducted from the amount of the fourth item (value of capital stock), and the balance, if any, assessed as the cash value of the personal estate. The amount of the sixth item(indebtedness) shall be deducted from the amount of the fifth item (personal property) and the balance, if any, assessed as personal."

In assessing vessels and marine property, whether of a corporation or individual, including both real and personal, Section 19 provides:

"The actual value of all such property after deducting the amount of the seventh item (bona fide indebtedness) shall be deemed the *assessable* value of such property."

If an individual is assessed without reference to the foregoing limitations, Section 19 provides:

"All *bona fide* indebtedness, owing by such person, giving an itemized statement in detail, how secured and to whom owing, and the residence of such creditors and the amount due each, provided he desires to have the same deducted from his credits."——Not personal property.

Now all of the foregoing processes are simply the method of determining, in the language of the Section itself, "the assessable value of such proprty." Section 19 then is the very foundation or pivot of the entire act. Before the officer could proceed under any other Section of the law to assess property he must determine within the limits of Section 19 the assessable value of that property. True by Sections 20, 21 and 22 (Secs. 3843-4-5 C. L., '97 Mich.) the assessing officer, in case of wilful neglect or incorrect return of property on the part of the taxpayer, may take other methods of ascertaining the data required by Section 19; but he must use it in the same way as if originally furnished in compliance with that Section, and must then make the calculations specified by that Section to determine the "assessable value of such property."

The principle contemplated by the Statute, as originally enacted, was taxation of *net* as opposed to *gross* values, determined by allowing deductions for indebtedness. The two principles are mutually exclusive. By striking out Section 19, the system is transferred into one taxing gross values.

The particular method adopted is unconstitutional because denying equal protection of the law to, and depriving, Appellant of his property without due process of law; but that does not permit the law to stand without Section 19, for to do so would be to hold that the Legislature intended to do the very thing which they have declared they did not intend to. This Court said in Olcott vs. Fond du Lac (16 Wall., 678 at p. 690) that "the nature of taxation, what uses are public and what are private, and the extent of unrestricted Legislative power are matters which, like questions of commercial law, no State Court can conclusively determine for us." This language has direct application to the question presented, and follow-

ing the reasoning of Olcott vs Fond du Lac it can be said here that whether a system of taxation is based upon the assessment of *net* or *gross* values "is not a question of consti tutional construction. It is a question of general law. It has as much reference to the Constitution" system or Statute "of any other State as it has to the State of" Michigan. "Its solution must be sought not in the decisions of a single State tribunal, but in the general principles common to all Courts."

Even if the whole law has not been rendered unconstitutional by the striking out of that Section (19), still all tax titles, all sales of land for taxes, and all taxes levied and all assessments made under the law previous to the time when that Section was declared unconstitutional must be void. The decision declaring Section 19 unconstitutional was rendered February 12, 1901. and a re-hearing denied July 2, 1901. The bill herein was filed September 19, 1900. Every assessment down to the decision rendered February 12, 1901 was based upon and followed the unconstitutional and illegal methods required by that Section. Section 19 was always void. It is in conflict with the Federal Constitution particularly the XIVth Amendment thereof.

Even if the State Courts had not declared Section 19 unconstitutional, we have no hesitation in saying this Court would do so for the reason that that Section permits the indebtedness of some individuals to be deducted from the total amount of their personal property of others from credits only, and of still others from the total amount of their real and personal property. It embodies class legislation in the most aggravated form, for there are no distinctions in the persons or property affected to justify this distinction. This Court then having jurisdiction, will go further and determine the effect of the unconstitutionality of Section 19 upon the whole act.

" * * * Yet as the case is before us in a case in which the law of a State is claimed to be in contravention of the Constitution of the United States, under another clause of that Statute (Act of March 3, 1891.) we have jurisdiction of the entire case and of all questions involved in it."

Scott vs. Donald, 165 U. S., 58 at pp. 73 and 74.
Citing Horner vs. U. S., 143 U. S., 570.
Carey vs. H. & T. C. R. Co., 150 U. S., 181.
Chappell vs. U. S., 160 U. S., 499.

The acts performed under Section 19 and indeed the entire law previous to February 12, 1901, when Section 19 was stricken out by the State Supreme Court are not remedied by striking out that Section or amending the law.

"So far as these actions at law are concerned it is of course obvious that the damages recovered were for acts committed under the alleged authority of the Act of 1895, and cannot be affected by the provisions of the Act of 1896 even if the invalidities of the former Act were thereby remedied—a matter on which we express no opinion."

Scott vs. Donald, 165 U. S., 101.

In Fargo vs. Hart, Auditor General of the State of Indiana (decided March 21, 1904) already referred to, this Court held, following the decision of the Supreme Court of the State of Indiana in Hart vs. Smith, 159 Ind., 182, 58 L. R. A., 949, 64 N. E. Rep.,661, that the method of assessment was illegal and consequently that the State Board of Tax Commissioners acted without jurisdiction, although the Statute itself, under

which the assessment was made, had previously by this Court been held to be constitutional in American Ex. Co. vs. Indiana, 165 U. S., 255, and its principle approved in Adams Ex. Co. vs. Ohio State Auditor, 165 U. S., 194 and 166 U. S., 185 and Adams Ex. Co. vs. Kentucky 166 U. S., 171.

We present a stronger case. Neither the Statute nor system of taxation we attack has been upheld by this Court as was the Indiana Statute and system. On the other hand, we have referred this Court to a decision of the Supreme Court of the State of Michigan (125 Mich., 694) which, like the Indiana case of Hart vs. Smith supra, holds that the method of assessment based upon Section 19 is unconstitutional and consequently that the Assessor was without jurisdiction to make the assessment under that Section. We have gone further and shown that the rules for making deductions for indebtedness provided in said Section 19 cannot be applied uniformly but discriminate against Appellant and deprive him of his rights and property in contravention of the Federal Constitution.

It seems to us self-evident that assessments made, taxes levied and sales held under an unconstitutional Statute, or under a Statute part of which is unconstitutional and the unconstitutional provision acted upon and followed. are absolutely void in that they deprive the citizen of his property without due process of law.

Section 72 of the Tax Law of 1903, being Section 3895 of Miller's Laws of the State of Michigan, 1897, has been held void by the Supreme Court of the State of Michigan in two cases, Deveaux vs. Taylor, 100 Mich., 581, and Dawson vs. Peter, 119, Mich., 278-9. In the case of Ball vs. Ridge Copper Co., 118 Mich., page 7, the Supreme Court of the

State of Michigan held however that the whole law was not void by reason of Section 72 attempting to make tax deeds conclusive evidence of title. In Marx vs. Thorne, 148 U. S., 172 this Court has held laws making deeds conclusive evidence void.

Sections 3,895, 3,905, 3,907, 3,922, 3,928, 3,947, 3,949 and 3,953, Miller's Statutes. 1897, being sections of the tax law in controversy, all in some more or less direct way, provide that tax deeds issued shall be *conclusive evidence* of title; so that these Sections must fall. With Sections 19 and 72 and dependent sections above mentioned void, covering both the initiative of the tax law as to the method of taxation and the granting of deeds upon tax sales to carry out the law, it would seem that the whole act should be held unconstitutional.

4. The valuation of Appellant's real estate was excessive, and was not only far in excess of its actual value but was assessed higher than similar property of equal value. (R. p. 89.)

"It has, however, been held that where the valuation is so grossly out of the way as to show that the Assessor could not have been honest in his valuation, and must have known of its excessive character, such valuation will be accepted as proof of a fraud upon his part against the taxpayer, and in such case a Court of Equity will grant relief."

Burton Stock Car Company vs. Traeger, 58 N. E. Rep. 419 and Cases cited.

Enormous amounts of personal property were intentionally and fraudulently omitted from the assessment rolls. (R. p. 92.)

Either of these facts imposes a disproportionate share of the tax upon Appellant. Operating simultaneously they increase his burden out of all proportion to that of others favored by the operation of the law and the action of the officials; and bring this case within the principle of Norwood vs. Baker that where in an individual case a law is so administered as to infringe upon constitutional rights, its enforcement will in that particular case be restrained even though in general terms it may be constitutional.

Norwood vs. Baker, 172 U. S., 269 at p. 298.

"In the present cases we are not obliged to reason from the probable to the actual, and pass upon the validity of the ordinances complained of, as tried merely by the opportunities which their terms afford of unequal and unjust discrimination in their administration; for the cases present the ordinances in actual operation, and the facts shown establish an administration directed so exclusively against a particular class of persons as to warrant and require the conclusion that, whatever may have been the intent of the ordinances as adopted, they are applied by the public authorities charged with their administration, and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of that equal protection of the laws which is secured to the petitioners, as to all other persons, by the broad and benign provisions of the Fourteenth Amendment to the Constitution of the United States. Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations, between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution. This principle of interpretation has been sanctioned by this Court in Henderson vs. Mayor of City of New York, 92 U. S., 259, 23 L. Ed., 543; Chy Lung vs. Freeman, 92 U. S., 275, 23 L. Ed., 550; Ex parte Virginia, 100 U. S., 339, 25 L. Ed., 676; Neal vs.

Delaware, 103 U. S., 370, 26 L. Ed., 567; and Soon Hing vs. Crowley, 113 U. S., 703, 5 Sup. Ct., 730, 28 L. Ed., 1,145."

Yick Wo vs. Hopkins, 118, U. S. 356, at p. 373.

5. The Defendant on lands placed on the Homestead List, called Homestead Tax Lands in the General Tax Law, cancelled all taxes. (R. p. 97.)

This is only another way of charging back to Appellant the losses thus arising by act of defendant. There is no legal authority for such additional exaction.

"Losses arising from the sale of the "five year list" of State tax lands so called, under the tax law of 1869 are improper charges against the counties and their collection cannot be enforced. Auditor General vs. Ottawa County, 76 Mich., 295."

Auditor General vs. Midland County, 84 Mich., 121.

If improper charges against the County, then *a fortiori* improper charges against the individual, in this case the Appellant.

We have shown how demands for payment of taxes and other mandatory provisions of the law have been entirely disregarded, thus rendering the administration of the law unconstitutional even if the law itself were otherwise unobjectionable.

We specify without further discussion, amongst others, additional objections to the law already discussed, namely:

That the law pledges the public credit for private purposes by guaranteeing to purchasers of tax titles, in case their tax titles are void, a higher rate of interest than is allowed by the State laws. (R. p. 105, Sec. 45.)

Taxation for such a purpose is not taxation for a public purpose or use. It benefits a few at the expense of the many.

That the Legislature has usurped judicial functions by construing and defining the term "Cash value" as used in the State Constitution. (R. p. 88, Secs. 11 and 12.)

This provision of the General Tax Law would deprive this Court of the right to say what the term "Cash value" means. That term, like classification, is certainly one for judicial determination; and the Legislature of the State of Michigan has not the power to pass any law which will curtail or control the jurisdiction or judicial action of the Supreme Court of the United States.

As every assessment is and has been based upon this Legislative construction of the term "Cash value" is Appellant not interested?

Another unconstitutional interference with the judicial department is the provision of the Statute directing a decree to be entered by the Court.

Still another is conferring upon the Auditor General, a merely executive and administrative officer, the power to cancel sales and deeds.

The division of the Powers of Government is thus provided for in the Constitution of the State of Michigan, Article III:

"Section 1. The Powers of Government are divided into three departments: The Legislature. Executive and Judicial."

"Section 2. No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this Constitution."

That the system of bidding reduces the value of the land assessed to the amount of the tax levied against it when offered for sale. (R. p. 97, Subdiv. 5.)

Under such a system there is no practical way to get for the owner the surplus value. It discourages bidding, and amounts in practice to confiscation. It benefits only the tax-title shark.

Equalization of property for assessment is by the Counties made and based upon real estate only, but by the State upon both real and personal property. This produces an unequal and discriminating apportionment. The State taxes are apportioned amongst the Counties according to the ratio the total real and personal property in each County bears to the total amount of real and personal property in the State; but the State tax thus apportioned to each County is by the Board of Supervisors for that County apportioned to each Township or other municipality in the County by adding to or taking from the total assessed value of real estate only, in such Townships, or other municipality such as an incorporated City Town of Village, such arbitrary amount as the Board may

determine and assigning to each Township or other municipality, *when thus equalized*, that proportion of the State Tax which corresponds to the ratio the *equalized* value of that Township or other municipality bears to the total value of real estate in the County, disregarding absolutely all the personal property therein subject to taxation.

The provision of the Statute is:

"The Board of Supervisors in each County shall, at their session in October in each year, examine the assessment rolls of the several Townships, Wards or Cities, and ascertain whether the relative valuation of the real property in the respective Townships, Wards or Cities, has been equally and uniformly estimated. If on such valuation they shall deem such valuation to be relatively unequal they shall equalize the same by adding to or deducting from the valuation of the taxable property in any Township, Ward or City or Townships, Wards or Cities such an amount as in their judgment will produce relatively an equal and uniform valuation of the real property in the County, and the amount added to or deducted from the valuation in any Township, Ward, or City shall be entered upon the records."

General Tax Law, Sec. 34.

If real estate has been in the first instance assessed at its true cash value, this equalization (?) must seriously disturb values in levying State and County taxes.

It is to be noted too that this "see saw" method of equalization by disregarding personal property, which is largely located in the cities, shifts a relatively greater portion of the taxation from the cities to the rural communities. This is class legislation pure and simple. Yet Counsel say this is a moot question and one that does not interest Complainant, whose lands are entirely in rural districts.

An analysis of the Brief filed on behalf of the Appellees shows that the first 44 pages, after a brief statement of the case, discuss whether this is a suit against the State and argue that the State has not consented to be thus sued.

As we have pointed out this argument begs the question by assuming the constitutionality of the law. This part of the argument as well as that claiming the suit has abated by reason of one Auditor General succeeding another, which makes the same assumption, has already been fully answered herein.

From pages 44 to 65 Counsel discusses questions presented by the Bill which he classifies under the headings "Want of Equity." The Bill sets forth the entire system and scheme of taxation in Michigan. It does not do to dismiss the questions presented by simply branding them as "Moot Questions" or "Wanting in Equity." The important questions of "Classification" and "Section 19" thus dismissed by Counsel we have discussed fully. As elsewhere in his argument he still begs the question by assuming that the law is constitutional. The law he says (Brief pp. 56-57) takes away the remedy by injunction and the Supreme Court of Michigan say in the case of Eddy vs. Township of Lee, 73 Mich., 123, that the Legislature had the authority to do so. But the Federal Courts are not affected by such a provision and decision. This Court has held time and again that if the Statute under which a tax is levied is unconstitutional or if the tax or levy is illegal and the case is brought within some well recognized head of equity jurisdiction then the Complainant is entitled to relief by injunction in spite of any prohibition contained in the law.

"The law of Tennessee however, affects only the jurisdiction of its own Courts of Equity. It does not restrict or dimin-

ish the power or jurisdiction of Federal Courts of Equity, because only an Act of Congress can do that. *In re* Tyler, 149 U. S., 164; Mississippi Mills vs. Cohn, 150 U. S. 202; Kirby vs. Lake Shore etc. R. Co., 120 U. S., 130; Sheffield Furnace Co. vs. Withrow, 149 U. S., 574. Hence it follows that if the controversy * * * * is one over which the Circuit Court of the United States, sitting in equity, * * * has jurisdiction by virtue of the Constitution and laws of the United States, and according to the general principles governing equity jurisdiction, its power to issue an injunction against state officers is not restricted by a State Statute which only applies and can only apply, to injunctions issued out of State Courts."

Taylor vs. Louisville, Etc., R. Co., (C. C. A.) 88 Fed Rep., 357.

Take for example the "Method of Sale." Counsel says Appellant shows no interest because the lands have been bid off for the State. Appellant's contention is that the lands would not have been so bid off under a fair method of sale. If the method encouraged bidders, something like the value of the lands could be obtained.

Take again for example the items "Printing—Advertising" and "Collection Fee and Interest." These are fully described on page 100 of the Record. They are items provided for in the general levy of taxes. Still these special charges, under the circumstances, deprive Appellant in the case of Printing of over $400.00 per annum on the lands in question for there are over 1100 descriptions; and in "Expenses of Sale" deprive him of $800.00 and upwards per annum. They are special charges or taxes and entirely unwarranted for they are necessarily included in the general tax levy and have therefore been already once provided for.

Yet Counsel for Defendants says these illegal and excessive charges furnish no equitable ground of complaint and that Appellant shows no interest enabling him to complain.

Pages 65 to 74 of Defendants' Brief are devoted to the remedies at law which the Tax Law affords Appellant. the ,argument still proceeding upon the Assumption that the law is constitutional and valid. Counsel seems to have overlooked the principle of the Virginia Coûpon Cases, *supra*, that if the Complainant alleges the unconstitutionality of a law and Defendants seek to substi'ute the State or to justify their acts as performed under authority of the State, it is not sufficient to assert such authority of the State but they must go further and produce, a valid law of the State—one that is constitutional under both the State and Federal Constitutions.

This the defendants have not done and cannot do.

The remaining questions discussed in the concluding part of the Brief we think we have fully answered.

The relief to which Appellant is entitled depends upon the allegations of his Bill; not upon the relief he may have prayed. It is then immaterial tha: he may have asked to have his title quieted, if in fact that specific relief cannot be granted. His Bill may still be maintained and he be granted some of the relief prayed for, if the allegations of his Bill are sufficient. He has shown that the law is unconstitutional, the alleged taxes illegal, and his title thereby clouded. Is he not then entitled to have the law declared unconstitutional the taxes set aside and the Defendants enjoined?

The principle is thus stated in a Michigan case:

"To determine whether a bill is multifarious, we must look to the stating part of the Bill, and not to the prayer alone; for if, in his prayer for relief, complainant ask several things,

to some of which he may be entitled and to others not, the Bill is not on that account, multifarious, but he will, on the hearing, be entitled to that specific relief only which is consistent with the case made in the stating part of the Bill.,,

Hammond vs. Michigan State Bank, Walk. Ch., 214, 247.

Equity will, where an unlawful act has been performed, exercise its jurisdiction to place the parties in *statu quo.*

"The fact that after the bringing of injunction proceedings, and after the Court has acquired jurisdiction, Defendant completed the act sought to be restrained, is no defence to the proceedings, since the Court has power to place the parties in *statu quo.*"

New Haven Clock Company vs. Kochersperger, Treasurer, et. al. 175, Ill., 383.

We have been met, not on the merits, but by technical defences. The Appellant presents a meritorious case. In addition, we submit, he has answered every objection raised by defendants; and is supported in every instance by the decisions of this Court. We ask therefore that the decree of the Circuit Court be reversed.

JOHN A. McKAY,
Solicitor and of Counsel for Appellant.

GEORGE W. WEADOCK,
Of Counsel.

23762

STATE OF MICHIGAN

GENERAL TAX LAW

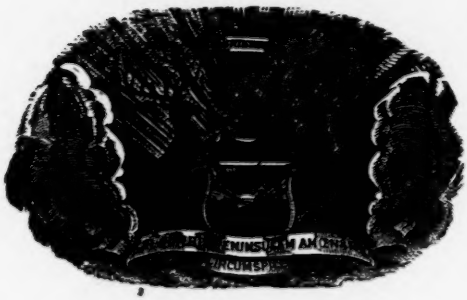
1893-1895-1897-1899

ACT 206, PUBLIC ACTS OF 1893, AS AMENDED BY ACTS 25, 154, 162 AND 229, PUBLIC ACTS OF 1895; ACTS 206, 214, 224, 225, 229, 240 AND 261, PUBLIC ACTS OF 1897; AND ACTS 31, 32, 83, 97, 107, 154, 169, 204, 215, 239, 262 AND 264, PUBLIC ACTS OF 1899.

WITH ANNOTATIONS AND CITATIONS FROM MICHIGAN REPORTS AND OTHER SOURCES, AND REFERENCES TO STATUTES AFFECTING THE ADMINISTRATION OF THE TAX LAW

COMPILED AND PUBLISHED UNDER THE SUPERVISION OF

ROSCOE D. DIX, AUDITOR GENERAL



BY AUTHORITY

LANSING, MICH.
ROBERT SMITH PRINTING CO., STATE PRINTERS AND BINDERS
1900

23763

PREFATORY.

This issue of the General Tax Law as amended is intended to include excerpts from all Michigan Supreme Court decisions that relate thereto or to similar provisions in the enactments that preceded it; reference to the principal statutes that are to be considered by assessing and collecting officers, including a synopsis of the provisions of general acts governing cities of the fourth class and villages, and of the school, drain and highway laws; extracts from some of the more directly applicable writings on taxation; a table of cases, authorities and statutes referred to herein, and some practical notes that may assist those who are charged with the execution of the law.

All references to sections of the General Tax Law refer to the notes to the sections as well as to the sections themselves, and may be intended to refer to either or both.

Cases having a direct bearing on the general laws or the particular statutes referred to herein, but not applicable to any question liable to arise under the general tax law, are not included herein. On the other hand many cases are cited that are not tax cases, but some enunciation therein has direct bearing on the general tax law.

In considering decisions quoted herein it will be remembered that they have been rendered under successive tax laws, and many which will very generally be recognized as affecting the principles involved in the present law should not be considered as having direct and complete application to the sections where they are found. The earlier decisions held taxes and sales void for many irregularities that would void neither taxes nor sales under the policy of the present law; yet these same irregularities, if practiced now, might and frequently do occasion expensive litigation and the elimination of a very considerable part of the taxes assessed, either on the hearing of the Auditor General's petition for decree of sale, or in actions brought earlier. For this reason, while it should not be considered that tax sales under the present law can be set aside for defects or irregularities that do not prejudice property rights, yet it is as important that the letter and spirit of the law should be carefully observed as it was when every minor departure from the exact performance of the letter of the law might be made the subject of contest, even years after the sale of the land.

All objections other than those that are jurisdictional are now foreclosed by the decree, and decisions holding otherwise will be found to have been rendered under laws in force prior to those of 1889 and 1893. This should be remembered in considering the cases quoted or referred to, and that non-jurisdictional objections cannot now be raised successfully after decree.

WHEN ACTS TOOK EFFECT.

Act 206 of 1893, approved June 1, 1893, was ordered to take effect June 12, 1893.

Act 25 of 1895 (amending Section 9), approved March 20, 1895, was given immediate effect.

Act 154 of 1895 (amending Sections 62, 71, 73, 74, 84, 87, 98, 106, 113, 120, 124, 127 and 135), approved May 18, 1895, took effect Aug. 30, 1895.

Act 162 of 1895 (amending Section 66), approved May 18, 1895, took effect Aug. 30, 1895.

Act 229 of 1895 (amending Sections 11 and 47), approved May 31, 1895, was given immediate effect.

Act 206 of 1897 (amending Section 108), approved May 29, 1897, took effect Aug. 29, 1897.

Act 214 of 1897 (amending Section 111), approved May 29, 1897, took effect Aug. 29, 1897.

Act 224 of 1897 (amending Section 87), approved May 29, 1897, took effect Aug. 29, 1897.

Act 225 of 1897 (amending Sections 54, 57, 61, 62, 63, 70, 71, 74, 78 and 79), approved May 29, 1897, was given immediate effect.

Act 229 of 1897 (adding Sections 140, 141, 142 and 143), approved June 2, 1897, took effect August 29, 1897.

Act 240 of 1897 (amending Section 131), approved June 2, 1897, took effect Aug. 29, 1897.

Act 261 of 1897 (amending Section 42), approved June 2, 1897, took effect Aug. 29, 1897.

Act 31 of 1899 (amending Section 66), approved April 6, 1899, was given immediate effect.

Act 32 of 1899 (amending Section 14), approved April 8, 1899, was given immediate effect.

Act 83 of 1899 (amending Section 87), approved May 25, 1899, was given immediate effect.

Act 97 of 1899 (adding Section 144), approved June 1, 1899, was given immediate effect.

Act 107 of 1899 (amending Sections 127, 128, 130, 131, and 133), approved June 9, 1899, was given immediate effect.

Act 154 of 1899 (amending Sections 21 and 22, and adding Sections 145, 146, 147, 148, 149, 150, 151, 152, 153, and 154), approved June 23, 1899, was given immediate effect.

Act 169 of 1899 (adding Section 138 and 139), approved June 23, 1899, was given immediate effect.

Act 204 of 1899 (amending Sections 140 and 141), approved May 17, 1899, took effect September 23, 1899.

Act 215 of 1899 (amending Section 47), approved June 1, 1899, took effect September 23, 1899.

Act 239 of 1899 (amending Section 18), approved June 15, 1899, took effect September 23, 1899.

Act 262 of 1899 (amending Sections 24, 41, 59, 61, 62, 67, 70, 73, 74, 78, 84, 89, 98 and 102), approved June 23, 1899, took effect September 23, 1899.

Act 264 of 1899 (amending Section 66), approved June 23, 1899, took effect September 23, 1899.

MAXIMS.

The authority to tax being fixed by the statutes must be strictly pursued.—Case v. Dean, 16 M. 12.

Taxes and assessments must be laid on principles of justice and equality.—Clay v. Grand Rapids, 60 M. 451.

Taxation for private purposes is unlawful.—Butler v. Saginaw Supervisors, 26 M. 22; Clee v. Sanders, 74 M. 692.

Taxes cannot be levied to accumulate funds for the future.—Midland v. Roscommon, 39 M. 424.

In paying taxes the citizen contributes his just and ascertained share to the expenses of the government under which he lives.—Black on Tax Titles 3.

The State alone possesses the power to authorize the assessment and levy of taxes and to establish rules therefor. A local custom which is opposed to the general policy of the State on the subject to which it refers is not valid in law.—Tremble v. Crowell, 17 M. 493.

A tax cannot be collected if not authorized by written law—Folkerts v. Power, 42 M. 283.

Without a valid assessment no subsequent step can have any color of validity.—Black on Tax Titles 89.

The assessor cannot legislate. He has to do solely with administering the law. As an officer of the county or of minor municipalities, he should remember that the county is responsible to the State for the regularity of taxes returned.—Auditor General v. Monroe Supervisors, 36 M. 71.

Every essential proceeding in a tax levy must be taken in conformity with the requirements of law, and must appear in some written and permanent form in the records of the bodies authorized to act upon them, a parol levy of taxes not being legally possible under our laws.—See Palmer v. Rich, 12 M. 414; Moser v. White, 29 M. 60; Mills v. Township of Richland, 72 M. 100, etc.

It is not sufficient that assessment in its various stages be regular in most things; it must be legal in all things.—See Tillotson v. Webber, 96 M. 144.

Statutes for the assessment and collection of taxes, as to what they require to be done for the protection of the tax payer, are mandatory and cannot be regarded as directory merely.—Clark v. Crane, 5 M. 151.

The provisions of the tax law must be strictly construed where a departure from them would prejudice the owner of the property taxed.—Houghton County v. Auditor General, 41 M. 28.

Township officers cannot ignore common sense and ordinary experience in discharging their duties.—Medina v. Perkins, 48 M. 67.

It is sometimes matter for serious regret that a court is compelled to declare a sale for taxes invalid where apparently no great injustice has been suffered; but when the necessity arises it is commonly because tax officers persistently disregard the limitations which are imposed by express statutes upon their authority.—Silsbee v. Stockle, 44 M. 561.

Every taxpayer is assumed to know the usual course taken to enforce payment directly, or in case of a return of delinquent property.—Louden v. East Saginaw, 41 M. 18.

Every owner of land is held to know the law. He knows that his land is subject to taxation; that he must pay his fair share of the public revenue and that if he fails to do so proceedings will be taken under the law against his land. It is his duty, therefore, to watch the proceedings provided for by the statute for the foreclosure of the lien and interpose any objection he may have to the validity of the tax.—Cole v. Shelp, 98 M. 56.

The policy of the law is that parties shall pay legal taxes even though there may be some irregularity in demanding them, and that they shall complain to the courts of those errors only which may injure them.—Stockle v. Silsbee, 41 M. 615.

If parties interested in the land which is liable to taxation are diligent in attending to the duty imposed upon them by the law, no hardship will be done them.—Berkey v. Burchard, 5 Det. Leg. News 723.

Statutes are to be construed in the light of previous history and surrounding circumstances; and their language is not to be measured by mathematical rules merely, but is subject, in the nature of things, to numerous implied exceptions or qualifications.—Kennedy v. Gies, 25 M. 83.

The primary object of all interpretation of statutes is to ascertain the real intent of the legislature; and while this intent must be inferred from the language used, it is not the meaning of the particular words only in the abstract, or their strictly grammatical construction alone that is to govern, but they are to be applied to the subject matter and general scope and purpose of the whole act, and to be considered with some

reference to the evil sought to be remedied, and in the light of other statutes in pari materia, as well as the principles of the common law.—Whipple v. Judge Saginaw Circuit, 26 M. 341.

Assessors cannot safely rely upon "saving clauses" and "curative provisions" in the tax law to protect them or the taxes assessed by them from the natural results of disregard of the requirements of the law. Such provisions are only applicable to irregularities.—Wright's Assessor's Manual 18.

GENERAL TAX LAW

OF THE

STATE OF MICHIGAN.

(Act 206, Public Acts of 1893, as amended by Acts 25, 154, 162 and 229 of 1895; Acts 206, 214, 224, 225, 229, 240, and 261 of 1897; and Acts 31, 32, 83, 97, 107, 154, 169, 204, 215, 239, 262 and 264 of 1899.)

AN ACT to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes heretofore and hereafter levied; making such taxes a lien on the lands taxed, establishing and continuing such lien, providing for the sale and conveyance of lands delinquent for taxes, and for the inspection and disposition of lands bid off to the State and not redeemed or purchased; and to repeal Act No. 200 of the Public Acts of 1891, and all other acts and parts of acts in anywise contravening any of the provisions of this act.

The one object of the act is to provide for collection of taxes and the multiple character of the title does not bring it within the prohibition of Sec. 20, Art. IV., Constitution.—See Auditor General v. Stiles, 83 M. 460. The construction of titles covers that which is directly or indirectly connected with the subject named.—See People v. Gadway, 61 M. 290, cases cited 287. Not necessary to set out in title every means necessary to accomplish the end sought.—Callaghan v. Chipman, 59 M. 613. The purpose is accomplished when the law has but one general object fairly indicated in the title.—People v. Mahaney, 13 M. 481. 495; People v. Hurlbut, 24. M. 44; Stockle v. Silsbee, 41 M. 615; see also Auditor General v. Bay Co. Supervisors, 106 M. 662; and notes to Secs. 135 and 143. Omission of statement that object is also to punish violators does not render provisions therefor invalid.—Insurance Co. v. Raymond, 70 M. 485.

Property subject to taxation.

SECTION 1. (3824 C. L. '97.) *The People of the State of Michigan enact*, That all property, real and personal, within the jurisdiction of this State, not expressly exempted, shall be subject to taxation.

The legislature shall provide an uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law.—Sec. 11, Art. XIV. Constitution. A tax within the meaning of Art. XIV. is a charge for public uses.

Jurisdiction is co-extensive with territory.—People v. Tyler, 7 M. 161, 219. Territory includes lakes and rivers within limits of State.—Id. 228-9. All property is within the taxing power unless designedly put beyond it by the sovereign power of the State.—Robertson v. Commissioner State Land Office, 44 M. 274.

For exemptions specified in this act see Secs. 7 and 9.

EXPRESSLY EXEMPTED BY OTHER ENACTMENTS: Military bounty land while held by patentees or their heirs for three years after date of patent.—Ordinance of 1836, C. L. '97, p. 66. Cannot be held to mean three years from location.—People ex rel Throop v. Auditor General, 9 M. 134; Indian allotment lands allotted under Act of Feb. 28, 1887, as amended 1891.—Chap. 383, U. S. Stat. v. 24. Property of corporations exempt by reason of paying specific taxes.—See notes to Sub. 8, Sec. 7; shares in building and loan associations inc. under Act 50 of 1887, and mortgages and other securities held by such association.—7590 C. L. '97 (does not include shares in similar associations of other states); property of agricultural societies inc. under Act 80 of 1855, when used solely for the purposes of their incorporation.—See 5954 C. L. '97; for limitations; also Sub. 9, Sec. 7; certain properties of musical societies inc. under Act 128 of 1887.—8257 C. L. '97; lands, etc., of rural cemetery associations inc. under Act 12 of 1869.—8399 e. s. C. L. '97; real property of hospitals or asylums inc. under Act 242 of 1863.—8288 e. s. C. L. '97; property not exceeding in value of $100,000 of industrial and charitable schools inc. under Act 135 of 1867.—8280 e. s. C. L. '97; personal property of society of marksmen inc. under Act 33 of 1889.—7692 C. L. '97; property of incorporations for cultivation of art inc. under Act 3 of 1885.—8226 e. s. C. L. '97; homes for aged, etc., inc. under Act 52 of 1897.—8271 e. s. C. L. '97; property of women's auxiliary association of University of Michigan.—3980 C. L. '97; private burial grounds.—8417 C. L. '97.

OF REAL PROPERTY.

Real property defined.

SEC. 2. (3825) For the purpose of taxation, real property shall include all lands within the State, and all buildings and fixtures thereon, and appurtenances thereto, except such as are expressly exempted by law.

"Lands" and "real estate" include all rights thereto and interests therein.—50 C. L. '97. Includes standing timber.—Sovereign v. Ortman, 47 M. 181; Spalding v. Archibald, 52 M. 365; Williams v. Flood, 63 M. 487. And unsevered crops.—Coman v. Thompson, 47 M. 22; Knapp v. Wolverton, 47 M. 292; Preston v. Ryan, 45 M. 174.

Standing timber is assessable as realty, being an interest in the land.—Fletcher v. Township of Alcona, 72 M. 18; Williams v. Hyde, 98 M. 152. But nursery stock is assessable as personal property.—See Sub. 14, Sec. 8.

Where land is owned by one person and buildings thereon by another the two are to be separately assessed.—Cooley on Taxation, 367. Private buildings on lands of the United States or this State are assessed as personal property.—Sub. 7, Sec. 14. So are buildings on leased lands.—Sub 11, Sec. 8.

"Such as are expressly exempted by law" should be understood as meaning not merely "exempted" from taxation, but also such buildings and appurtenances as are expressly classified elsewhere in the general tax law as personal property.—Assessor's Manual 20. See Subs. 10, 11, 12, 14 and 16, Sec. 8. For real estate exemptions see Sec. 7 and notes to Sec. 2.

Riparian rights of owners of lands abutting on waters should be considered in the assessment of such lands and not assessed separately.—See cases cited in Boom Co. v. Adams, 44 M. 404. Water power should be assessed with the land on which the power is obtained as a part of the realty. So with mineral deposits or quarries and all that pertains to the land, consideration being given thereto in the determination of value.—See Sec. 27.

Real estate owned by railroads or union depot companies and not actually occupied in the exercise of their franchises is liable to taxation.—6277 C. L. '97. See also 3964-7.

Under provisions of this section the mooted question whether machinery in a building is a part of the realty is not, for the purposes of taxation, in issue.—Assessor's Manual 19.

RIPARIAN RIGHTS: Any erection which can lawfully be made in the water within the limits of riparian rights belongs to the riparian estate, Ryan v. Brown, 18 M. 196. Boundary between riparian rights is determined by extending a line from boundary at shore perpendicularly to the general course of the stream opposite that point.—Clark v. Campau, 19 M. 325. Riparian rights, unless expressly exempted, extend to the middle of the navigable channel, and cover any shallows or middle ground not shown in the government survey but lying between such channel and the shore.—Fletcher v. Thunder Bay Boom Co., 51 M. 277. As to riparian rights in the Great Lakes, see Lincoln v. Davis, 53 M. 375. Title of riparian owner extends to the middle line of the inland waters.—Webber v. F. & P. M. Boom Co., 62 M. 626; Ice and Coal Co. v. Ice and Coal Co., 102 M. 227. Owner of fractional division made so by an inland lake owns the soil under the water of said lake which should be included within the subdivision if its lines were fully extended.—Clute v. Fisher, 65 M. 48. Where the government has surveyed its lands along bank of river and has sold and conveyed them by government subdivisions, patent conveys title to all islands lying between the meander line and the middle thread of the river, unless previous to its issuance the government has surveyed such inlands as government subdivisions or has expressly reserved them where not so surveyed.—Butler v. Railway Co., 85 M. 246. Where the government does not meander an island or indicate an intention to set it apart, it passes as appurtenant

to the grant of the lands on the shore, and cannot at a subsequent time be surveyed and sold as an island.—Church v. Case, 6 Det. Leg. News, 837. Grantee of land bounded by a meandered river takes title to the middle thread of the main channel of the stream and may maintain his right to a so called "island" lying between such channel and the main land, unless it appears that the government ever surveyed or treated the intervening land as an island.—Gough v. Cougle, 118 M. 307.

Where and to whom assessed.

SEC. 3. (3826) Real property shall be assessed in the township or place where situated, to the owner if known, and also to the occupant, if any; if the owner be not known, and there be an occupant, then to such occupant, and either or both shall be liable for the taxes on said property, and if there be no owner or occupant known, then as unknown. A trustee, guardian, executor, administrator, assignee or agent, having control or possession of real property, may be treated as the owner. The real property which belonged to a person deceased, not being in control of an executor or administrator, may be assessed to his heirs or devisees jointly, without naming them, until they shall have given notice of their respective names to the supervisor, and of the division of the estate.

Assessments should be to the owner if known. If occupied and owner is unknown then to the occupant, if any. If neither is known and only in such case, assessment should be as "unknown." The owner is the person having the legal title, and assessment should be to the true owner if he can be discovered. In determining ownership, assessors are not bound to go behind the records; and if title is in litigation it is not for them to decide who is the owner.—Black on Tax Titles, 107. Land is properly assessed to one having title of record.—Loud & Sons Lumber Co. v. Hagar, 118 M. 452. If no one holds actual possession, the owner of the title has constructive possession.—Ruggles v. Sands, 40 M. 559. One in possession of land claiming it as his own, is bound to pay the taxes imposed upon it which become due during his possession.—Dubois v. Campau, 24 M. 360. Tenancy of any sort is a species of title.—Van Doozer v. Dayton, 45 M. 247. A life tenant should be assessed as owner during the continuance of life estate.—Jenks v. Horton, 96 M. 13; Austin v. Hyndman, 6 Det. Leg. News, 8. It is the duty of tenant of lands for life to pay the taxes.—Smith v. Blindbury, 66 M. 319. Where life tenant fails to pay taxes, title passes to the purchaser under tax sale, and remainder-man's remedy is against owner of life estate.—Watkins v. Green, 101 M. 493.

Occupancy might consist of cultivation and use without actual residence or might be by a tenant.—Cummings v. State Treasurer, 7 M. 366. To be an occupant it is not necessary that he should have his home upon the premises.—Tweed v. Metcalf, 4 M. 579. If a husband has the care and occupancy of the wife's land it may be assessed to him as occupant; but if they live apart and the husband has not the charge or possession of the land, it must be assessed to the wife.—Black on Tax Titles, 100. Payment of taxes in previous years under the same conditions may properly be considered in determining how person paying regarded his occupancy.—Hood v. Judkins, 61 M. 575.

Real estate held by a trustee, guardian, executor, administrator, assignee or agent should be assessed in his name as owner, but with the addition of the designation of his fiduciary capacity.—Assessor's Manual 22. See also Black on Tax Titles, 106. Assessment to estate by name is equivalent to assessment to heirs or devisees without naming them.—Dickison v. Reynolds, 48 M. 159. The designations "heirs" and "devisees" or "legatees" should not be confounded. The words are not synonymous and assessment to "heirs" has been held invalid in cases where the property was given to devisees.—Assessor's Manual 22.

Land held by two or more tenants in common should be assessed to all jointly, or undivided interests to each severally.—See Sec. 6. An assessment of land in a township where it does not lie is void, although it was not assessed in the proper township.—Taylor v. Youngs, 48 M. 268.

A mortgage conveys no title to the mortgagee.—Hogsett v. Ellis, 17 M. 351; Wagar v. Stone, 36 M. 364. Assessment and subsequent proceedings to enforce payment of the taxes does not estop the State from afterwards claiming lands as escheated lands.—Crane v. Reeder, 25 M. 303.

One cannot avoid taxation by the conveyance of his land to a third party, where the object of the conveyance is simply to avoid taxation and not to make a sale in good faith to the party taking the conveyance.—H. M. Loud & Sons Lumber Co. v. Elmer, 6 Det. Leg. News, 949.

See Secs. 4, 5, 6, 7, 11, 24, 29, 39, 99.

Homestead and part paid State lands.

SEC. 4. (3827) All licensed homestead lands, the fee of which is in the State, when the licensee is entitled to make final proof to obtain a patent for the same, shall be assessed and treated as real property. The interest in land of any person holding part paid certificates for the purchase of any State lands shall be assessed separate from other property. The assessment shall describe the land and shall state therein that the title is in the State. The taxes, if not paid to the township treasurer, shall be returned and collected as hereinafter provided.

The interest acquired under part-paid certificate of purchase of State lands is part of the individual property of the purchaser and is to be assessed as personalty, but separate from the general valuation of his personal property, and in the town where the land lies.—Robertson v. Land Commissioner, 44 M. 274. See Attorney General v. A. P. Cook Co., 6 Det. Leg. News, 805.

The provision of this section as to licensed homestead lands the fee of which is in the state is the same as the rule applied to lands homesteaded under United States statutes.

The county treasurer shall furnish lists of such lands and of the names of patentees and licensees to supervisors on or before April 10th.—Sec. 92. See Sec. 122; also 1461 and 3974-6, C. L. '97.

Corporation realty.

SEC. 5. (3828) The real property of a corporation shall be assessed to the name of the corporation as to an individual, if known, in the township or place where situated, or it may be assessed to the occupant or to any authorized agent if so requested of the supervisor.

A corporation whose property is taxable stands on the same footing as an individual under our taxing laws.—Graham v. St. Joseph, 67 M. 652.

Undivided interests.

SEC. 6. (3829) Undivided interests in lands owned by tenants in common, not being co-partners, may be assessed to the owners thereof, if so requested, and in the discretion of the supervisor.

If so assessed the undivided interests assessed to each must be specified. In assessing undivided interests the acreage should be given entire. For instance, the acreage in assessing the undivided half of the N. ½ of N. E. ¼ would be 80 acres, not 40.

Where purchasers of undivided half of wild timber lands under a contract silent as to possession and payment of taxes, lumber the land and receive half the benefits of the lumbering, they are liable for half of the taxes levied after the purchase.—Thompson v. Noble, 108 M. 26.

Husband and wife are not tenants in common of lands conveyed to them jointly.—Fisher v. Provin, 25 M. 347.

REAL ESTATE EXEMPTIONS.

Exemptions.

SEC. 7. (3830) The following real property shall be exempt from taxation:

U. S. property.

1. All public property belonging to the United States;

State property.

2. All public property belonging to the State of Michigan, except licensed homestead lands, part paid lands held under certificates, and lands purchased at tax sales, and still held by the State;

Municipal property.

3. Lands owned by any county, township, city, village or school district and buildings thereon, used for public purposes;

Realty of charitable, etc., associations.

4. Such real estate as shall be owned and occupied by library, benevolent, charitable, educational and scientific institutions, incorporated under the laws of this State, with the

buildings and other property thereon, while occupied by them solely for the purposes for which they were incorporated: *Provided*, That such exemption shall not apply to fraternal or secret societies, but all charitable homes of such societies shall be exempt; Proviso.

5. All houses of public worship, with the land on which they stand, the furniture therein, and all rights in the pews, and also any parsonage owned by any religious society of this State and occupied as such; Churches and parsonages.

6. All lands used exclusively as burial grounds, and the rights of burial therein, and the tombs and monuments therein, while reserved and in use for that purpose: *Provided*, That the stock of any corporation owning such burial grounds shall not be exempt; Cemeteries. Proviso.

7. The real and personal property of persons who, in the opinion of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges; Poor persons.

8. The real property of corporations exempt under the laws of this State, by reason of paying specific taxes in lieu of all other taxes for the support of the State: *Provided*, The track, right of way, depot grounds and buildings, machine shops, rolling stock, and all other property necessarily used in operating any railroad in this State belonging to any railroad company, shall henceforth remain exempt from taxation for any purpose, except that the same shall be subject to special assessments for local improvements in cities and villages, and all lands owned or claimed by any such railroad company not adjoining the track of such company, shall be subject to all taxes; Corporations paying specific taxes. Proviso as to railroads.

9. Property owned exclusively by the State agricultural society, or any county or district agricultural society, and used by any such society exclusively for fair purposes; Agricultural societies.

10. All land dedicated to the public and actually used as a park, and any monument ground or any armory belonging to any military organization, and not used for gain or any other purposes. Parks, monument grounds, armories.

Exemption ought to receive a strict construction.—Cooley on Taxation, 205. Statutes providing for exemption from taxation must be understood as exempting only as therein specified and not otherwise. There are few questions upon which assessors should so carefully confine their acts to the strict letter or the unmistakable intent of the law as in the matter of exemptions. In Johnston v. City of Oshkosh, 27 N. W. Rep. 320, it was held when assessors omit property in good faith because they believe the legislature has enacted a law exempting such property, when it has not, it invalidates the assessment.

The language of the legislature in exempting from taxation is as much entitled to obedience as that imposing taxation.—Home and Day School v. Detroit, 76 M. 521. A construction will not be put upon a tax law which will enable a party for whom no purpose of exemption is expressed to escape taxation.—Philadelphia v. Ridge Avenue Railroad Co., 102 Pa. St. 190. A homestead is not exempt from taxation or from sale for taxes.—10,368, C. L. '97.

Exemption from taxation does not exempt from municipal taxes or local assessments.—Black on Tax Titles, 64, 81. Exemption by charter of certain unplatted lands from taxation for fire department purposes must be regarded, but does not exempt from taxation for interest on water works bonds.—Baldwin v. City of Hastings, 83 M. 639. Inferior municipalities (counties, townships, school districts, cities and villages) cannot make exemptions except expressly authorized by the State.—Black on Tax Titles, 30. Exemption of certain surveyed townships in a school district from a general school tax invalidates the levy.—Auditor General v. McArthur, 87 M. 457.

An agreement between a municipality and a corporation organized for the purpose of supplying the city with water, under which the city agreed to

pay a portion of the taxes which might be assessed against the company, made upon good consideration, does not create an exemption from taxation.—Auketell v. Hayward, 5 Det. Leg. News, 902. Exemption from taxation of a property employed in a business upon which a state bounty is paid is in its nature and purpose only a bounty law and not a contract and may be repealed at any time.—East Saginaw Mfg. Co. v. City of East Saginaw, 19 M. 259.

SUB. 1. Real property of the United States is not subject to taxation until sale or other disposition so as to divest the government of its title.—Black on Tax Titles, 9. See 1150-2 C. L. '97.

Lands the title to which still remains in the native Indians, or in the United States in trust for them, are not taxable by the State for any purpose.—Black on Tax Titles, 42. "Native Indian" synonymous with an Indian who is not a citizen or one holding tribal relations.—See Sub. 6, Sec. 2. Lands patented to a "not so competent" Indian under treaty prohibiting its alienation without the consent of the government is not subject to taxation.—Auditor General v. Williams, 94 M. 180. The equity of the purchaser of government land must be valid and complete before the land is taxable.—Black on Tax Titles, 37. But patent need not have actually issued.—See note to Sub. 2. The possessory interests which private individuals may hold in the public land of the United States for mining, agricultural or other purposes, is not subject to taxation by the State.—Black on Tax Titles, 40.

See notes to Sec. 1.

SUB. 2. The public property of the State includes the property of all public institutions supported by the State.—Auditor General v. Regents, 83 M. 467. See Mich. State Bank v. Hastings, Walker's Chan. Rep., 9. State lands are taxable as private property when the purchaser has become possessed of a perfect equitable title to the land though no patent is yet issued. But if any condition precedent remains to be fulfilled before the grantee becomes entitled to the fee, the land is not taxable to the purchaser as realty.—Assessor's Manual 25. For assessment of the interest in such lands see Sub. 10, Sec. 8.

Title of land escheated is in the state.—Crane v. Reeder, 21 M. 24.

SUB. 3. But when not so used, but rented to private persons, such realty is subject to taxation.—Black on Tax Titles 49. So also if neither rented nor used for public purposes. Such lands subject to local assessments for benefits only when legislative provision therefor is clear.

Property of county cannot be sold to enforce collection of sewer tax.—Big Rapids v. Supervisors, 99 M. 351. In Lansing v. Board of State Auditors, 111 M. 327, the provision of city charter providing for assessment of State property for police and fire protection was held to be unconstitutional, not being expressed in the title to the act. Land owned by Board of Water Commissioners of Detroit held to be exempt though rented, the act creating the board expressly providing that all lands of the board should be exempt without exception.—Board of Water Commissioners v. Auditor General, 115 M. 547.

SUB. 4. Benevolent, charitable, educational or scientific institutions must be organized chiefly if not solely for one or more of these objects. To claim exemption under this Sub. it is not enough that one of the objects is of that character.—Attorney General v. Common Council, 113 M. 388.

Building owned by corporation organized under Act 536 of 1865 "for the purpose of free reading room and library," which was leased for club purposes, not exempt.—Auditor General v. Women's Temperance Association, 5 Det. Leg. News 876. Exemption of real property of libraries used and occupied by them for the purposes of the organization does not include tenements under the same roof.—Det. Y. M. S'cy. v. Mayor, 3 M. 172. The fact that the building is so constructed that the parts leased to third party cannot be separated from the residue by definite lines is no obstacle to a valuation of such parts for purposes of taxation, having due reference to the taxable value of the entire property.—Black on Tax Titles 60. See Sisters of Charity v. Detroit, 9 M. 94.

The term "Scientific Institution" means an institution for the advancement or promotion of knowledge. A corporation organized under Chap. 213-8149-56, C. L. '97, "to establish, maintain and conduct a seminary of learning," the actual business of which has been the maintenance of such a seminary, is not taxable for its realty occupied by its school buildings.—Home and Day School v. Detroit, 76 M. 521. This evidently brings all colleges incorporated under the laws of this State within the provisions of this section.

The property of an unincorporated scientific institution, the benefit of whose library, museum, etc., is restricted to members is not exempt. A hospital is not excluded from the list of "charitable" institutions because persons of pecuniary ability are required to pay for what they receive, when not exacted as a means of gain.—Assessor's Manual 26.

INSTITUTIONS INCLUDED: Public art instit'ns inc. under Act 3 of 1885.—8226 C. L. '97. Association for establishing scholarships in University of Michigan.—8157 e. s. C. L. '97. Libraries and lyceums incorporated under Chap. 53, R. S. '46.—8164 e. s. C. L. '97. Polytechnic associations inc. under Act. 95, 1869.—8183 e. s. C. L. '97. Historical, biographical and geographical societies inc. under Act 156 of 1873.—8190 e. s. C. L. '97. Associations for intellectual, scientific, aesthetic, etc., culture inc. under Act 79 of 1879.—8196 e. s. C. L. '97. Engineering societies inc. under Act 232 of 1887.—8244 e. s. C. L. '97. Benevolent societies inc. under Act 155 of 1879.—8258 e. s. C. L. '97. Charitable societies inc. under Act 20 of 1855.—8264 e. s. C. L. '97. Homes for aged, infirm or indigent inc. under Act 52 of 1897.—8271 e. s. C. L. '97. Hospital and asylums inc. under Act 242 of 1863.—8288 e. s. C. L. '97. Michigan State

medical societies inc. under Act 169 of 1879.—7699 e. s. C. L. '97. Eclectic medical societies inc. under Act 58 of 1877.—7705 e. s. C. L. '97. Veterinary medical associations inc. under Act 56 of 1891.—7719 e. s. C. L. '97. Bar associations inc. under Act 107 of 1881.—7725 e. s. C. L. '97. Teachers' associations inc. under Act 117 of 1855.—7730 e. s. C. L. '97. Charitable societies inc. under Act 166 of 1899. Institutions of learning inc. under Act 390 of 1855.—8140 e. s. C. L. '97. See Home and Day School v. Detroit, 76 M. 521.

EXCEPTIONS: Property of industrial and charitable schools inc. under Act 135 of 1867 as amended by Act 50 of 1895 in excess of $100,000.00 is not exempt.—8284 C. L. '97. Real property of corporations for literary and scientific purposes inc. under Act 160 of 1895 not exempt. Act repeals act of 1865.—8170 e. s. C. L. '97. Real property of musical societies inc. under Act 128 of 1857 not exempt except where corporation is composed entirely of women not for profit but solely for study of music and to advance musical knowledge, and only on condition that no rental is derived from the building and that the society give at least two free musical entertainments during each year.—8250-7 C. L. '97. Property of societies for study of literature inc. under Act 200 of 1897 is not exempt.—8181 C. L. 1897. Property of associations for encouragement of fine arts inc. under Act 233 of 1865 is not exempt.—8204 e. s. C. L. '97. Such properties of ecclesiastical bodies inc. under Act 209 of 1897.—8297 e. s. C. L. '97, as are exempt are particularly defined in Sub. 5.

SUB. 5. Exemption of house of public worship applies only to taxes imposed under the general system of taxation and does not extend to assessments for paving or other local improvements.—Lefevre v. Mayor, 2 M. 586. Such part of a building as is used exclusively for religious purposes may be exempt from taxation and the part not so used may be subject to taxation.—Black on Tax Titles 73.

A church edifice which is no longer used as a place of public worship is not exempt. Churches owned by private persons and not by organized societies are not exempt; but the fact that the title to the church of an organized society is in the name of a trustee or trustees does not except it from exemption. Land owned by a church and not used for its purposes is not exempt, unless held with the purpose of building a church thereon. A diocesan residence is not exempt as a parsonage. A Young Men's Christian Association building is not exempt as a house of public worship.—Assessor's Manual 26-7.

SUB. 6. Improvements essential to the use and enjoyment of the land for the purposes of a cemetery are exempt. Land within the boundaries of a cemetery dedicated or acquired for burial purposes is exempt though not actually used therefor.—Black on Tax Titles, 75. But land owned by any burial ground association inc. under Act 87 of 1855.—8362 e. s. C. L. '97, and not being part of its burial grounds, is not exempt.—8397 e. s. C. L. '97. Old cemeteries are exempt where city or village ordinances prevent further interment.—Assessor's Manual 27.

SUB. 7. The exemptions must be determined by the board of review before certifying to the assessment rolls, and no general taxes on property so exempt should appear upon the tax roll.

SUB. 8. Includes plank road companies.—6560 and 6610 C. L. '97; river improvement co's.—6721 e. s. C. L. '97 (not 6750 e. s. or 6764 e. s.); railroad companies.—6277 C. L. '97, except such real estate as is not actually occupied in the operation of the road (see also 6221 C. L. '97); union depot companies inc. under Act 244 of 1881.—6376 C. L. '97; life insurance companies not incorporated under Michigan laws.—7205 C. L. '97 (other insurance companies paying specific taxes are not exempt thereby from taxation of their property within the State); telegraph, telephone and express companies, except such real estate as is owned and can be conveyed under the laws of this State and not actually occupied in the exercise of its franchises and not necessary in the proper operation of its business.—Act 179 of 1899 (see Attorney General v. Common Council, 113 M. 388). Does not include musical societies inc. under Act 128 of 1857. See 8257 C. L. '97. 3992 C. L. '97 superseded.

Section 14 of Act 39 of 1883—6902 C. L. '97, as amended by Act 231 of 1899, provides that corporations for constructing, etc., water courses may on or before second Monday in April of any year, elect to pay a specific tax in lieu of all general taxes upon the lands upon which water course is located and which shall be appurtenant thereto and the improvements thereon.

Only such lands of a railroad company as are held and presently used for railroad purposes are exempt from taxation, and the exemption does not apply to lands that have been acquired with a view of future use by the company.—Auditor General v. F. & P. M. R. R. Co., 6 Det. Leg. News 22.

Railroad land and buildings thereon belonging to the corporation which are leased to private person, company or firm for private business is liable to taxation even though by the terms of the lease the tenant is under obligations to perform certain services in his line of business for the railroad and to furnish a certain amount of freight annually for transportation over the railroad company's lines.—Black on Tax Titles 65. Land in railroad yards occupied by lumber company but no rental paid held not subject to taxation, it being shown that the land is used constantly by the company in the exercise of its franchise.—Auditor General v. F. & P. M. R. R. Co., 114 M. 682. An elevator erected by a railroad or union depot company on its lands and owned by the corporation as a grain warehouse in connection with its general business is a necessary equipment and exempt from ordinary taxation.—Detroit U. R. D. & S. Co. v. Detroit, 88 M. 347. Railroad hotels for general accommodation are not exempt.—Black on Tax Titles

67. A toll house owned by a plank road company and the lot on which it stands, if owned by the company, although not actually within its right of way, is exempt from ordinary taxation while used solely as a toll house and residence for its keeper.—Plank Road Co. v. Detroit, 81 M. 562.

SUB. 9. Where the track and horse barns upon fair grounds are rented to horse trainers and breeders, the proportionate value of such realty so leased is subject to assessment.—Assessor's Manual 28. See also 5954 C. L. '97. Includes horticultural societies.—5963 C. L. '97, and pomological and kindred societies.—5983 C. L. '97.

SUB. 10. Armories owned by military companies are not exempt if rented for other purposes for a consideration, nor would such part of an armory building so owned as is used for other purposes, but the proportionate value of such leased portion of the building and of the land on which it stands would be assessable.—Assessor's Manual 28.

OF PERSONAL PROPERTY.

Personal property defined.

SEC. 8. (3831) For the purposes of taxation, personal property shall include:

Moneys. 1. All moneys;

Annuities, royalties. 2. All annuities and royalties;

Goods, chattels. 3. All goods, chattels and effects within the State;

Boats. 4. All ships, boats and vessels and their appurtenances belonging to inhabitants of this State, whether at home or abroad;

Goods situate without State. 5. All goods, chattels and effects belonging to inhabitants of this State, situate without this State, except that property actually and permanently invested in business in another State shall not be included;

Credits. 6. All credits of every kind belonging to inhabitants of this State, over and above the amounts respectively owed by them whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without the State;

Shares in corporations. 7. All shares in corporations organized under the laws of this State, when the property of such corporations is not exempt, or is not taxable to itself; or when the personal property is not taxed;

Bank shares. 8. All shares in banks organized within this State, under the laws of this State or of the United States, at their cash value, after deducting the assessed value of real property owned by and assessed to such banks;

Shares in foreign corporations. 9. All shares in foreign corporations, except national banks, owned by citizens of this State;

Interest in public lands. 10. All interests owned by individuals in lands, the fee of which is in this State or the United States, except as herein otherwise provided;

Improvements on leased lands. 11. All buildings and improvements situate upon leased lands, except where the value of the real property is also assessed to the lessee or owner of such buildings and improvements;

Public vaults. 12. Tombs or vaults built within any burial grounds, and kept for hire or rent, in whole or in part, and the stock of any corporation or association owning any such tombs, vaults or burial grounds;

Omnibus clause. 13. All other personal property not herein enumerated, and not especially exempted by law.

14. All nursery stock and trees while growing on any land or in preparation for replanting or in transit; Nursery stock.

15. All produce, seeds and grain on hand stored in warehouse or mill, and in transit, owned within this State; Produce.

16. The personal property of all gas and coke companies, natural gas companies, electric light companies, waterworks companies and hydraulic companies, to be assessed in the township, village or city where the principal works are located. The mains, pipes and wires of such companies laid in or along roads, lanes, streets or alleys shall be assessed as personal property in the township, village, or city where the same are laid or placed. The personal property of street railroad, plank road, cable or electric railroad or transportation companies, bridge companies, and all other companies not required to pay a specific tax to the State in lieu of all other taxes, shall be assessed in the township, village or city where its principal business office is situated, and the track, road or bridge of any such company shall be held to be personal property and may be assessed in the township, village, or city where the same is located, used or laid. Lighting and water companies. Transportation, road and bridge companies.

SUB. 3. See 2969-73 C. L. '97 as to taxation of copper.

SUB. 4. A vessel of a non-resident or a foreign corporation does not become subject to the taxing power of the State by engaging in business therein.—Roberts v. Charlevoix, 60 M. 197; Graham v. St. Joseph, 67 M. 652.

SUB. 6. Authorizes tax on credits held by resident trustee for non-resident beneficiaries.—Detroit v. Lewis, 109 M. 155. "Credits" includes all bills and accounts receivable, deposits, mortgages, loans, etc.

SUB. 7. Exemption of the corporate stock of a corporation is an exemption of its shares.—Cooley on Taxation 212. Intangible property like stock must always follow the domicile of the owner unless separated from it by positive law.—Howell v. Cassopolis, 35 M. 471.

In the construction of this section due consideration should be given to Section 11, which provides that all corporate property, except where some other provision is made by law, shall be assessed to the corporation, in the name of the corporation. See also Sec. 5 as to real property of corporations and note to Sec. 19.

If the property of a corporation is assessed to itself the shares of stock are not assessable to the individual holders thereof.—Attorney General Oren, March 19, 1900.

Shares assessable must be assessed at cash value. See 8549 C. L. '97 as to fraudulent transfer to avoid taxation. As to list of stockholders in certain corporations see 8567 C. L. '97.

Real estate of trust companies to be assessed to corporation and shares to be assessed at cash value after deducting value of real estate assessed to corporation as in case of banks.—6168 C. L. '97. Interest of shareholders in co-operative savings associations to be assessed to holders at residence in lieu of tax against associations.—7547 C. L. '97. Stock in stage company owned by other corporations to be deducted from stock of corporation owning and taxed only as capital of stage company.—6474 C. L. '97.

CORPORATIONS WHOSE PROPERTY IS TAXABLE TO THE CORPORATION BY PROVISION IN ACT OF INCORPORATION: Corporations for buying, etc., cattle, etc., inc. under Act 198 of 1887.—6040 e. s. C. L. '97. Corporations for buying and selling brood animals inc. under Act 100 of 1887.—6015 e. s. C. L. '97. Manufacturing companies inc. under Act 232 of 1885.—7037 e. s. C. L. '97. Publishing companies inc. under Act 97 of 1861.—7146-e. s. C. L. '97. Newspaper and book publishing associations inc. under Act 97 of 1861.—7146 e. s. C. L. '97. Newspaper and book publishing associations inc. under Act 299 of 1865.—7151 e. s. C. L. '97. Printing, publishing and book-making companies inc. under Act 304 of 1887.—7156 e. s. C. L. '97. Bridge companies inc. under Act 83 of 1851.—6629 e. s. C. L. '97; bridge with its appurtenances, gates and toll houses to be assessed to the company as personal property in the township in which tolls shall be received. Warehouse companies inc. under Act 26 of 1867.—6886 e. s. C. L. '97. Land purchasing and improvement companies inc. under Act 196 of 1889.—6868 e. s. C. L. '97. Canal and harbor companies inc. under Act 233 of 1875 (distinguished from river improvement companies inc. under Act 149 of 1869.—6721 e. s. C. L. '97, the latter paying specific taxes).—6696 e. s. C. L. '97. Rafting and booming companies inc. under Act 16 of 1864.—6523 e. s. C. L. '97. Co-operative associations inc. under Act 288 of 1865.—7465 e. s. C. L. '97. Summer home associations inc. under Act 39 of 1889.—7639 e. s. C. L. '97. Suburban homesteads, villa park and summer resort associations inc. under Act 69 of 1887.—7654 e. s. C. L. '97;

but lots sold are assessable to owners.—7662 C. L. '97. Societies for study of literature etc. incorporated under Act 200, of 1897.—8178 e. s. C. L. '97. Temperance Volunteers Association.—7953 e. s. C. L. '97. Grand Council Royal and Select Masters.—7980 e. s. C. L. '97. White Shrine of Jerusalem.—7983 e. s. C. L. '97. Rathbone Sisters.—8010 e. s. C. L. '97. Real Estate of Lutheran Bund.—8135 e. s. C. L. '97. Stage companies inc. under Act 29 of 1865.—6472 e. s. C. L. '97 (see note to Sub. 7.) Associations for the encouragement of the fine arts inc. under Act 233 of 1865.—8204 e. s. C. L. '97. Musical societies inc. under Act 128 of 1857.—8250 e. s. C. L. '97 (see note to Sub. 4, Sec. 7). Mutual provident association inc. under Act 275 of 1889.—7555 e. s. C. L. '97. Real estate of society of marksmen inc. under Act 73 of 1869.—7685 e. s. C. L. '97. Real estate of incorporated banks and trust companies.—6148 and 6168 C. L. '97. All mutual companies and associations not having shares of stock.

SUB. 8. Bonds of the United States are not liable and any portion of the capital stock of a bank so invested is exempt; but this does not exempt shares in a national bank though the capital stock of the bank is invested in United States bonds. The cash value of the shares of stock in a bank may be determined when the stock is not regularly quoted on a stock exchange by dividing the sum of the paid up capital and the surplus by the number of shares. In assessing the shares there must be deducted from each its proportion of the cash value of the realty that has been assessed to the bank.

The shares of stock issued by a bank include in their value all of the property of the bank, including its real estate, the value of which is to be deducted for separate taxation.—Lenawee Co. Savings Bank v. City of Adrian, 66 M. 273.

SUB. 9. See Graham v. Township of Joseph, 67 M. 652.

SUB. 10. See Sub. 2, Sec. 4 and Sec. 7 and notes thereto.

SUB. 11. A building erected on leased land is no part of the realty before the lease expires.—Osborn v. Potter, 101 M. 300.

SUB. 13. The tax law does not in express terms refer to the taxation of mortgages; but the provisions of this Sub. and of Sub. 6 leave no excuse for failure to assess their value to the owner.—Assessor's Manual 31. The note or bond and the mortgage that secures it are to be considered as one property. Attorney General v. Sanilac Supervisors, 71 M. 16. Assessment of notes or mortgages should be at their true cash value and not at what they purport to secure.—Attorney General v. Sanilac Supervisors, 71 M. 16.

Cars owned by individuals are not exempt from taxation because run over roads charged with specific taxes. Cars owned and used by a manufacturer are properly taxable with his stock in trade as appurtenances to the business.—Comstock v. Grand Rapids, 54 M. 641. Tram railways liable to taxation under general tax law.—Detroit Street Railway Co. v. Guthard, 51 M. 180.

The stock in trade and other appurtenances to the business of a liquor dealer are not exempt from taxation because of the payment of the liquor tax which partakes of the character of a license and is an exercise of the police power of the State. See Sherlock v. Stuart, 96 M. 193.

SUB. 16. Pipes of a water company laid on its own lands from pumping works to source of supply and to the city supplied, are a part of the realty and assessable accordingly and in the township where situated.—Water Company v. Frenchtown, 98 M. 431. The specific tax on pipe line companies, 6504 C. L. '97, is not in lieu of other taxes.

The general rules and manner of assessment only apply to these corporations to the extent that they do not conflict with the special provisions of this sub.—Opinion of Attorney General Oren, March 28, 1900.

PERSONAL PROPERTY EXEMPTED.

Exemptions.

SEC. 9. Am. Act 25 of 1895. (3832) The following personal property shall be exempted from taxation, to wit:

Charitable societies.

First, The personal property of benevolent, charitable, educational and scientific institutions, incorporated under the laws of this State: *Provided*, That such exemptions shall not apply to secret or fraternal societies, but the personal property of all charitable homes of such societies shall be exempt;

Public libraries.

Second, Of all library associations, circulating libraries, libraries of reference, and reading rooms owned or supported by the public, and not used for gain;

G. A. R., Y. M. C. A., etc.

Third, Of all posts of the grand army of the republic, sons of veterans, union veterans' unions, and of the women's relief corps connected therewith, of all young men's christian associations, and of women's christian temperance union associations, young people's christian unions, and other similar associations;

Fourth, Pensions receivable from the United States; Pensions.

Fifth, So much of the debts due or to become due as shall equal the amount of *bona fide* and unconditional debts by the person owing; Debts.

Sixth, The property of Indians who are not citizens; Indians.

Seventh, The library, family pictures, school books, one sewing machine used and owned by each individual or family, and wearing apparel of every individual; Library, sewing machine, wearing apparel, etc.

Eighth, Household furniture, provisions and fuel to the value of five hundred dollars to each household: *Provided*, No person paying board shall be deemed a householder; Furniture, provisions and fuel Proviso.

Ninth, The working tools of any mechanic not to exceed in value the sum of one hundred dollars: Mechanics' tools.

Tenth, Of all fire engines and other implements used in extinguishing fires, owned or used by any organized or independent fire company; Fire apparatus.

Eleventh, All mules, horses and cattle not over one year old, all sheep and swine not over six months old, and all domesticated birds; Young live stock.

Twelfth, Personal property owned and used by any householder, in connection with his business of the value of two hundred dollars. Personal property used in business.

Articles imported from foreign countries and the duties paid thereon do not lose their character as imports so as to become subject to state taxation as a part of the mass of property of the State until they have either passed from the control of the importer, or been broken up by him from the original cases; and the State tax is void whether based upon them distinctly as imports or as constituting a part of the importer's property.—Cooley on Taxation 90.

Payment of a liquor tax, a local license, or similar exaction levied in pursuance of the police power of the State or minor municipalities does not exempt from taxation a stock of goods to the possession of which such payment is incident. See Sherlock v. Stuart, 26 M. 193. Exemption from execution or from any other process, penalty or forfeiture does not exempt from taxation. Exemption of specified personal property should not be considered as exempting any property not so specified, even when it is, in the opinion of the assessor, of similar character.—Assessor's Manual 32-3. Abstract books referring to land titles have no intrinsic value and are not taxable.—Dart v. Woodhouse, 40 M. 399; Ferry v. Big Rapids, 67 M. 146.

SUB. 1. ACTS INCLUDED: Act 135 of 1867, "Industrial and charitable schools," exemption limited to $100,000.—8280 e. s. C. L. '97. Act 52 of 1897, "Homes for aged, infirm and indigent men or women."—8271 e. s. C. L. '97. Act 3 of 1885, "Public art institutions."—8226 e. s. C. L. '97. Act 188 of 1857, "Mechanics' associations."—7423 e. s. C. L. '97 (see also 7447 e. s.). Act 35 of 1897, "Colonial dames of America."—7863 e. s. C. L. '97. Act 160 of 1895 (Act 356 of 1895), "Corporations for literary and scientific purposes (exemption limited to $100,000)."—8170 e. s. C. L. '97. Act 128 of 1857, "Musical societies," (see Sec. 8257).—8250 e. s. C. L. '97. Act 169 of 1879, "Michigan State medical society."—7899 C. L. '97. Act 58 of 1877, "Eclectic medical society."—7705 C. L. '97. Act 56 of 1881, "Veterinary medical society."—7719 C. L. '97. Act 107 of 1881, "Bar associations."—7725 C. L. '97. Act 117 of 1865, "Teachers associations."—7730 C. L. '97. Act 390 of 1855, "Institutions of learning."—8140 C. L. '97. Act 191 of 1893, "Associations for establishing scholarships in University of Michigan."—8157 C. L. '97. Chap. 53 R. S. 1846, Libraries and lyceums.—8164 C. L. '97. Act 95 of 1869, "Polytechnic association."—8183 C. L. '97. Act 156 of 1873, "Municipal, historical, biographical and geographical societies."—8190 C. L. '97. Act 79 of 1879, "Associations for intellectual, scientific, etc., culture."—8198 C. L. '97. Charitable societies inc. under Act 166 of 1899. Act 232 of 1887, "Engineering societies."—8244 C. L. '97. Act 155 of 1879, "Benevolent societies."—8258 C. L. '97. Act 20 of 1855, "Charitable societies."—8264 C. L. '97. Act 242 of 1863, "Hospitals and asylums."—8288 C. L. '97. Act 209 of 1897, "Ecclesiastical bodies."—8297 C. L. '97. See note to Sec. 7 under head of "Exceptions." Societies for study of literature inc. under Act 200 of 1897, not exempt.—8181 C. L. '97. 3981 C. L. '97, is superseded by this Sec.

SUB. 3. The character of any organization claiming exemption under this provision must be in fact similar to those named in this sub-division, which is not intended to exempt the property of organizations whose name merely is similar to those designated.

SUB. 4. Pensions actually received and which have become merged with other personal property in possession of the pensioner on the second Monday in April, whether invested or uninvested, are not exempt.—Assessor's Manual 32.

SUB. 5. Does not entitle tax-payer to a reduction on account of liability under a lease for payment of rent for terms continuing into the future.—Beecher v. Common Council, 110 M. 456.

"Debts" is used in the first line of this Sub. as synonymous with the word "credits" as used elsewhere in the act.

SUB. 7. A private gallery of paintings cannot be considered as exempt under this Sub. "Family pictures" evidently mean family portraits.

SUB. 8. Musical instruments are not expressly included in the exemptions under this act. In Kehl v. Dunn, 102 M. 581, it was held that a piano was not "household goods, furniture or utensils" within the meaning of the statute exempting such property from execution.

SUB. 9. Tools of a dentist come within the meaning of "mechanics' tools."—Maxon v. Perrott, 17 M. 332.

SUB. 12. There are no decisions that may be a direct guide to the interpretation of this Sub., but the following under Sub. 8 of Sec. 10322 C. L. '97, are worthy of notice: "The articles need not be absolutely necessary, but must be adapted to aid in carrying on the business and actually in use for that purpose.—Kenyon v. Baker, 16 M. 373. May include lumber owned by carpenter though intended to build house for self.—Stewart v. Welton, 32 M. 59; or seed wheat by farmer.—Stilson v. Gibbs, 46 M. 215." Whether each member of a firm may claim exemption of property owned and used by firm and whether stock in trade may be held exempt under this Sub.-quere.

OF THE ASSESSMENT.

Annual assessment by supervisors.

SEC. 10. (3833) An assessment of all the property in the State, liable to taxation, shall be made annually in the several townships, villages and cities thereof by the supervisors of the several townships and wards, or in villages and cities where provision is made in the acts of incorporation or charter for some other assessing officer, then by such assessing officer, as hereinafter provided.

Supervisors, ex-officio assessors of townships.—2332 C. L. '97. The office of supervisor in cities may be abolished by the legislature at will and its functions conferred upon other municipal officers.—Attorney General v. Cogshall, 107 M. 181.

Duty of retiring public officer to deliver books and papers of his office to successor.—9843 e. s. C. L. '97.

Personal tax cannot be assessed against a non-resident; nor can property be taxed unless it has an actual situs within the State so as to be under the protection of its laws.—Graham v. Township of St. Joseph, 67 M. 652.

See Secs. 13, 14, 18 and 107.

SYNOPSIS OF ACT 215 OF 1895 PROVIDING FOR INCORPORATION OF CITIES OF THE FOURTH CLASS, 2956-3371 C. L. '97: Includes all cities having less than ten thousand population, 2956. Liabilities of village incorporated as city under this act deemed liabilities of the city and all taxes levied and uncollected at the time of the change to be collected as if such change had not been made, 2974. Election of treasurer, 2988; of supervisors, 2989. Appointment of assessor, 2990. City clerk to report amount of taxes to city treasurer, 3029. City treasurer—duties and compensation, 3033. Duties of supervisors in regard to taxes, 3048. Salary of treasurer and compensation of supervisors, 3060. Imposition of taxes or assessments requires two-thirds vote of aldermen elect, 3068. Licensing transient traders—proviso as to assessment of stock, 3107 Sub. 39. Assessment—for expense of abating nuisance, 3127; for sewers, 3161-6, 3169; for streets, 3174, 3178-9; for paving and improvements, 3180-2; for sidewalks, 3190. Special assessments, 3192-3, 3194, Am. Act 136 of 1899, 3195-3221. Appropriation of private property—assessment of benefits, Sec. 124, Am. Act 136 of 1899. (Entire Chap. 25 of Act 215 of 1895, amended by this Act.) Fiscal year—authority to raise taxes—funds—limit of taxation—apportionment—time of collection—voting taxes, etc., 3289-3317. Assessment by supervisor—proviso as to assessor, 3318-20. Equalization and review, 3321-2, Am. Act 136 of 1899, 3323. Certification of rolls, delivery to city clerk, 3324. Certification to county clerk of taxes to be raised, 3325. Apportionment and equalization by board of supervisors, 3326. Certification of special assessment to supervisors or assessor, 3327. Assessment roll—how made, 3328. Certification of taxes by supervisor to city clerk—bond of city treasurer—delivery of roll, 3329. Warrant, 3330. Lien, 3331. Notice—collection fee—collection, 3332, Am. Act 136 of 1899. Enforcement of collection as in general tax law, 3332-7. School taxes, 3352-3,3356.

Sec. 1, Chap. XXXI, providing for city assessor, is permissive merely and unless assessor is appointed as therein provided assessment will be made by a supervisor.—Ostrander v. Board of Supervisors, 111 M. 64.

CITIES GOVERNED BY SPECIAL CHARTER: Adrian, Alpena, Ann Arbor, Battle Creek, Bay City, Belding, Cadillac, Charlotte, Cheboygan,

Clare, Coldwater, Detroit, Eaton Rapids, Flint, Gladstone, Grand Ledge, Grand Rapids, Holland, Hudson, Ionia, Ironwood, Ishpeming, Jackson, Kalamazoo, Lapeer, Lansing, Manistee, Marshall, Marquette, Mason, Menominee, Muskegon, Negaunee, North Muskegon, Port Huron, Saginaw, Sault Ste. Marie, Traverse City, Three Rivers, West Bay City, Ypsilanti.

Corporate property, how and where assessed.

SEC. 11. Am. Act 229 of 1895. (3834) All corporate property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person, in the name of the corporation. The place where its office is located in its articles of incorporation shall be deemed its residence: *Provided*, Its business is actually transacted at such office; but if it shall establish its principal office in any other place than the place named in its articles of incorporation, then the place where it transacts its principal business shall be deemed its residence for all the purposes of this act. If there be no principal office in this State, then at the place in this State where such corporation or agent transacts business: *Provided further*, That all the personal property of all corporations heretofore or hereafter organized under the laws of this State for the purpose of engaging in maritime commerce or navigation shall be assessed only in the city, village or township which is stated in their original articles of association or in any amendment thereof heretofore or hereafter made, to be the location of their general office for business. The property of corporations paying specific taxes shall be exempt, as to the property covered by such taxation, except when otherwise provided by law. All other property of such corporation shall be taxed under this act. In computing the taxable property of insurance companies organized under the laws of this State, the value of the real property on which a company pays taxes shall be deducted from its net assets above liabilities, as determined and shown by the last report of the Commissioner of Insurance, and the remainder shall be the amount of personal property for which the company shall be assessed.

Proviso—marine property.

Property paying specific taxes.

Insurance companies.

The provisions relative to the time, manner and place of assessment of taxes are mandatory; but owner cannot avoid assessment at actual residence by claiming residence elsewhere for the purpose of escaping taxation.—Crittenden v. Mt. Clemens, 86 M. 220. Statement in articles of association of a corporation of the place where its office for business is located is not conclusive against the State for the purposes of taxation. A corporation must have a local habitation and cannot fix a nominal domicile in one place while its actual domicile is in another and thus avoid taxation at the place of actual habitation.—Detroit Transporation Company v. Assessors, 91 M. 382. 1529-30 and 6985 C. L. '97 repealed by Act 139 of 1891. Mining properties are taxable under provisions of this act.

In Michigan Dairy Company v. McKinlay, 70 M. 574, corporate property was assessed in corporate name and to its manager. Held that alternative assessments harmed no one, taxes being paid except on personal estate, for which property of the corporation was sold.

Copartnership property.

SEC. 12. (3835) For the purpose of assessing property and collecting taxes, a copartnership shall be treated as an individual, and whenever the name of the owner or occupant of property is required to be entered upon the assessment roll, if such property is owned or occupied by a copartnership, the firm name shall be used. A copartnership shall be deemed to reside in the township where its business is principally carried on. Each partner shall be liable for the whole tax.

As to partnership lands, possession of surviving partner, see Merritt v. Dickey, 38 M. 41. Surviving partner has title to personal assets of the firm until affairs of partnership are settled.—9354 C. L. '97. Assessments should be in the firm name in case of the property of a firm one member of which has died, if before the partnership business is closed out. In such case, while the legal title rests in the surviving partner, it is not his absolutely, but held by him only for the purpose of closing the partnership estate.—Blodgett v. Muskegon, 60 M. 580. In Sage v. Burlingame, 74 M. 120, a co-partnership was held liable for taxes on lands belonging to one member of the firm and assessed to the firm by direction of its agents.

Partnership property alleged to be held in joint tenancy, is held to have been properly assessed to partnership.—Hubbard v. Winsor, 15 M. 146. The provision that partnership property shall be assessed in the firm name is directory and must be construed in connection with the provision that no tax shall be held invalid on account of having been assessed in the name of some other person than the owner.—Hill v. Graham, 72 M. 659.

See Sec. 99.

Personal property, where assessed.

SEC. 13. (3836) All personal property, except as hereinafter provided, shall be assessed to the owner in the township in which he is an inhabitant, on the second Monday of April, of the year for which the assessment is made.

In Beecher v. Common Council of Detroit, 114 M. 228, relator claimed residence in Negaunee and voted there, but owned and occupied house in Detroit for two years and was assessed in latter city on personal property which was not assessed elsewhere. Held subject to assessment in Detroit. The holding was the same in the City of Detroit v. Macier, 117 M. 76, a case similar to the foregoing and in which the court held that the finding of a jury that one assessed for taxes was a resident was conclusive.

Title to personal property in the possession of an officer at the time fixed for assessment, under attachment by creditors, remains in the owner and is legally assessed to him.—Township of Kalkaska v. Fletcher, 81 M. 446.

A mortgage must be taxed to the owner where he lives, not where the land mortgaged is.—Latrobe v. Baltimore, 19 Md. 13.

See Sec. 10; also 3969-73 C. L. '97.

Exceptions.

SEC. 14. (3837) Am. Act 32 of 1899. The excepted cases referred to in the preceding section are as follows, viz.:

Non-residents' property.

1. All goods and chattels situate in some township other than where the owner resides shall be assessed in the township where situate, and not elsewhere, if the owner or person having control thereof hires or occupies a store, mill, dockyard, piling ground, place for sale of property, shop, office, mine, farm, place of storage, manufactory or warehouse therein, for use in connection with such goods and chattels: *Provided*, That the procuring any such property to be manufactured upon contract shall be deemed the hiring a mill or manufactory within the meaning of this section.

Proviso.

Animals.

2. All animals kept throughout the year in some township other than where the owner resides shall be assessed to such owner, or the person in possession, in the township where kept.

Bank shares.

3. All shares in banks shall be assessed to their owners in the township, village or city where the bank is located: *Provided*, That the shares owned by a person residing in the county where the bank is located shall be assessed in the township or city where he resides.

Proviso.

Property of minors, etc.

4. The personal property of minors under guardianship shall be assessed to the guardian in the township where he resides, and the personal property of every other person under guardianship shall be assessed to the guardian in the township where the ward resides.

Estates of deceased persons.

5. The personal property belonging to the estates of deceased persons, in the hands of executors or administrators,

shall be assessed to them in the township and in the school district where the deceased last dwelt, until they shall give notice that the estate has been distributed to the parties interested. If such deceased was a non-resident of the State such property shall be assesssed in the township where situated, to such executors or administrators, or to the person in possession.

Assessment to trustee, agent or pledgee.

6. Personal property under the control of a trustee or agent, whether a corporation or a natural person, may be assessed to such trustee or agent in the township where he resides, except as otherwise provided. Personal property mortgaged or pledged shall be deemed the property of the person in possession thereof and may be assessed to him.

Property on public lands.

7. All personal property of any person situate upon, also all buildings situate and being upon the lands of the United States, or of this State, shall be deemed personal property for the purposes of taxation and assessment, and shall be assessed as personal property, to the owner or occupant thereof, in the city, village or township in which such lands are situated, and such buildings shall be subject to sale for taxes in the same manner as herein provided for the sale of personal property: *Provided, however*, It shall not be necessary to remove any such buildings for the purpose of sale.

Proviso.

Non-residents.

Forest products.

8. Personal property of non-residents of the State, and all forest products owned by residents or non-residents, or estates of deceased persons, shall be assessed in the township or ward where the same may be, to the person having control of the premises, store, mill, dock, yard, piling ground, place of storage, or warehouse where such property is situated in such township, on the second Monday of April of the year when the assessment is made, except that where such property is in transit to some place within the State it shall be assessed in such place, except that where such property is in transit to some place without the State it shall be assessed at the place in this State nearest to the last boom or sorting gap of the stream in or bordering on this State in which said property will naturally be last floated during the transit thereof, and in case the transit of any such property is to be other than through any water course in or bordering on this State, then such assessment shall be made at the point where such property will naturally leave the State in the ordinary course of its transit; and such property so in transit to any place without the State shall be assessed to the owner or the person, persons or corporation in possession or control thereof, and in case such transit will pass said logs through the booms or sorting gaps, or into the places of storage of any person, persons or corporation operating upon any such stream, then such property may be assessed to such person, persons or corporation; and the person, persons or corporations so assessed for any such property belonging to a non-resident of this State shall be entitled to recover from the owner of such property, by a suit in attachment, garnishment or for money had and received, any amount which the person, persons or corporation so assessed is compelled to

Forest products in transit.

Destination without the state.

Recovery of taxes paid.

Lien.

pay because of such assessment, and shall have a lien upon said property as security against loss or damage because of being so assessed for the property of another, and may retain possession of such property until such lien is satisfied: *Provided, further,* That any owner or person interested in said property may secure the release of the same from such lien by giving to the person, persons or corporations so assessed a bond in an amount double the probable tax to be assessed thereon, but not less than the sum of two hundred dollars, with two sufficient sureties, conditioned for the payment of such tax by said owner or person interested, and the saving of the person, persons or corporation assessed from payment thereof, and from costs, damages and expense on account of his non-payment, which bond as to amount and sufficiency of sureties shall be approved by the county clerk of the county in which the assessment is made.

Proviso.

SUB. 1. See Township of Kalkaska v. Fletcher, 81 M. 446. Logs in camp are taxable there if there is an office and building for local business.—Ryerson v. Muskegon, 57 M. 383. See also Sub. 8.

Lumber owned by non-resident corporation and piled on dock lawfully, assessed to said corporation as custodian of the dock, though part was claimed to have belonged to others. Not necessary that part claimed to have belonged to other party should have been assessed to corporation as agent.—Sec. 24 does not limit authority conferred upon assessing officer so as to require him to ascertain whether the property is held by such person as agent, guardian or otherwise.—That one who has control of the dock for the purpose of placing lumber thereon has sold part of the lumber placed upon it to another person who is authorized to remove it does not take from the former the control of that part of the dock containing the lumber sold so as to prevent the assessment of such lumber to the seller.—Spanish River Lumber Co. v. Bay City, 113 M. 181.

Personal property belonging to a partnership is assessed in the locality where it is if the firm has its place of business there.—Williams v. Saginaw, 51 M. 120.

SUB. 3. Real estate owned by banks to be assessed to the corporation.—6148 C. L. '97; and shares to be assessed at cash value as herein provided after deducting the value of the real estate assessed to the bank. See also Howell v. Cassopolis, 35 M. 471. A state statute providing that shares in banks shall be taxed to shareholders, but requiring the bank to pay the taxes (Sec. 46) and authorizing it to collect from shareholders does not tax the bank, but its shares and is valid.—Black on Tax Titles 8. Bank stock certified by county clerk to supervisor who has no right to assess it may be assessed to owner where legally assessable though not certified to supervisor. —Crittenden v. Mt. Clemens, 86 M. 220.

R. S. of U. S. Sec. 5219 authorizes the taxation of national bank stock in the hands of individuals in such manner and place as the State may determine, subject only to the conditions that the rate shall not exceed that of taxation on other moneyed capital of citizens and that non-residents of the State holding stock shall be taxed in the city or town where the bank is located.

A village charter authorizing the taxation of "all property-real and personal within the limits of said village" not exempt from taxation for county and township purposes does not warrant the taxation by the village of the shares of shareholders who reside in another township in the same county.—Howell v. Cassopolis, 35 M. 471.

See Sec. 129.

SUB. 5. A legatee cannot be assessed for a legacy not yet due and in the hands of the executor.—Herrick v. Big Rapids, 53 M. 554. The assessment of a guardian upon an undistributed legacy to his minor ward is invalid.—Barstow v. Big Rapids, 56 M. 35. Supervisor who assesses land to estate after administration and discharge of executors, instead of to devisees who are the owners of the land, fails to assess as contemplated by the statutes.—Fowler v. Campbell, 100 M. 398. Sub. does not include forest products. See Sub. 8.

See "Suit for taxes," notes to Sec. 47.

SUB. 6. Securities belonging to a resident of the State, but in custody of an agent living in a different town, if assessed to both, assessment to owner takes precedence.—Curtis v. Richland, 56 M. 478. See Sec. 8 and "Pawn brokers," Sec. 19.

SUB. 8. Standing trees are not forest products.—Fletcher v. Township Alcona, 72 M. 18. See also Avery v. DeWitt, 72 M. 25, and note to Sec. 2. A contract for the sale of lumber providing it should belong to the vendor until shipped, is properly assessed to vendor if before shipment.—Hovey v. Gow, 81 M. 314. Timber cut under a contract that buyer was to cut and remove

within five years reverted to seller if left on land after expiration of the period.—Gamble v. Gates, 97 M. 465.
The provision relative to payment by one in possession and his remedy has some similarity to one in the law of 1853.—See Sears v. Cottrell, 5 M. 251.

Logs, etc., in transit.

SEC. 15. (3838) All forest products in transit on the second Monday in April in each year and thereafter found in the waters or streams of this State or on the banks or shores of any lake, pond or stream of this State, when the same is not at the place where it is to be manufactured, shall be held to have a place of destination at the sorting grounds of the rafting and driving agents or booming company nearest the mouth of the stream, unless the contrary shall be made to appear by the owner or party having the same in charge: *Provided*, That all lumber, logs, timber, lath, pickets, shingles, posts, cordwood, tanbark, telegraph or telephone poles, or railroad ties, that may be piled or left in any yard, railroad reserve, or in any shed, shall not be deemed in transit, but shall be assessed to the person or corporation having control of the yard, railroad reserve, shed or place of storage where the same may be situated at the time provided by law for taking such assessment.

Proviso.

Logs and lumber piled along the railroad track awaiting the convenience of the owner or facilities for shipment are not in transit and are assessable where situated; and in such case the fact of the existence of contracts to load or that some event has transpired to prevent shipment or that owner intends to ship in the near future should have no weight.—Maurer v. Cliff, 94 M. 194. Logs piled during the winter on the ice of a lake close by a railroad awaiting facilities for shipment by rail are not in transit, but are assessable where situated.—Plainfield Township v. Sage, 107 M. 19. Lumber piled on leased ground awaiting shipment properly assessed there.—Wood v. Judkins, 61 M. 575.
Lumber at railway station for transit merely is not taxable at that place as property in storage.—Monroe v. Greenhoe, 54 M. 9. Logs placed in river or lake for the purpose of shipment, but not for storage or for a definite time nor to await a market, and which were frozen in the ice upon the lake at the time of assessment were held to be in transit, it appearing that such transit was in progress when suspended by the close of the open season.—Pardee v. Freesoil, 74 M. 81. Where forest products are on banks or shore, and not at place of manufacture, destination is at sorting grounds unless owner makes contrary to appear.—Elk Rapids Iron Co. v. Township of Helena; Same v. Township of Milton, 117 M. 211.
Logs banked into a stream, and only waiting time of high water to be floated to destination or sorting grounds, and which are treated by the owners as in transit do not fall within the provision as to lumber and logs piled or left in yard, shed or any other place in the township where the same may be at the time for assessment.—Corning v. Masonville, 74 M. 177. Further as to forest products in transit, see Boyce v. Cutter, 70 M. 539.
An assessment made on property which is not assessable is void, as on logs in transit and so known to the assessor and assessable at place of destination.—Brooks v. Township of Arenac, 71 M. 231.
See 5082 C. L. '97 relative to marking floating logs and timber. Logs bearing recorded mark shall be presumed to belong to party in whose name mark is recorded.—5085 C. L. '97.

Supervisor to view logs, etc.

SEC. 16. (3839) It shall be the duty of the supervisor of the township in which any such saw logs, timber, railroad ties, telegraph poles or tanbark, cut prior to the time of taking the annual assessment, may be banked or piled, or that may be in transit, to ascertain the amount of such property which may be or may have been in his township or assessment district at any time during the month of April in each year, liable to assessment, by actual view of the same, as far as practicable, and to fix the value of such property, and to assess the same to the owner thereof as herein provided.

See Secs. 14 and 15.

Location of personal property.

SEC. 17. (3840) No change of location or sale of any personal property, after the first day of May in any one year shall affect the assessment made in such year. As between school districts and road districts the location of personal property for taxation shall be determined by the same rules as between assessment districts: *Provided*, That whenever the owner or occupant shall reside upon contiguous tracts or parcels of land which lie in two or more assessment districts, then the personal property of such owner or occupant shall be assessed in the assessment district where such owner or occupant resides at the time the assessment is made.

ASSESSMENT, HOW MADE.

Duties of assessor.

SEC. 18. (3841) Am. Act 239 of 1899. It shall be the duty of each supervisor or other assessing officer as soon as possible after entering upon the duties of his office, or as may be directed and required by the provisions of any acts of incorporation of any city or village making special provision for such assessment, to ascertain the taxable property of his assessing district, and the persons to whom it should be assessed and their residences. For this purpose he shall require every person of full age and sound mind who the supervisor or assessor believes has property which is not exempt from taxation, to make and subscribe to a true and correct written statement, under oath, administered by such supervisor or assessing officer, or other officer qualified to administer oaths under the laws of this State, of all the taxable property of such person, firm or corporation, whether owned by him or it or held for the use of another, and it shall be the duty of every such person, firm or corporation, to make such statement under the following form of oath, duly administered by the supervisor or assessing officer:

Shall require sworn statement.

Form of oath.

STATE OF MICHIGAN, } ss.
County of..... }

....., being duly sworn, deposes and says that the above is a full and true statement of all the taxable property owned by him liable to assessment in this assessing district.

(Signed).....

Dated this.....day of.....A. D. 18.....

Subscribed and sworn to before me this..... day of.....A. D. 18....

.....
Supervisor (or assessor).

Proviso.

Provided, That any person having no property which is not exempt, if required to take an oath by the supervisor or assessor, may take the following oath:

No property.

STATE OF MICHIGAN, } ss.
County of..... }

....., being duly sworn, deposes and says that he has no property or effects liable to taxation.

Dated this.....day of.....
18....

(Signed).....

Subscribed and sworn to before me this.....day of.....A. D. 18..

.....
Supervisor (or assessor).

The provision making it the duty of supervisors to require every person of full age and sound mind, etc., to make, subscribe and verify a statement of the taxable property owned by him or held by him for the use of another is mandatory.—Supervisor need not visit personally such persons, but may mail blank statement with notice to appear before him and verify the same.—Turner v. Circuit Judge, 95 M. 1.

Assessor cannot properly make an assessment against known facts.—Brooks v. Township of Arenac, 71 M. 231. Actual knowledge, however acquired, dispenses with the necessity for notice.—Jones v. Iron Co., 96 M. 98. Omission in statement does not justify the assessor in neglecting to assess property which he knows to have been omitted. It is the duty of the assessor to diligently inquire as to the taxable property within his jurisdiction.

Supervisor may require predecessor to deliver to him the books and papers belonging to the office.—Schneider v. McIvor, 58 M. 511.

One holding taxable property in more than one capacity should make a separate statement in each capacity. If he is guardian of an infant, trustee of a bankrupt estate, administrator of the estate of a deceased person and executor of another, he may be required to make a statement of his own property and also separate statements of the property held by him in his several fiduciary relations.—See Sec. 24.

When a village charter does not require an assessor to require a sworn statement of taxable property, a village tax assessed without assessor requiring such statement to be made is not invalidated thereby though the general tax law requires it for general assessment.—Lumber Co. v. Village of Oscoda, 97 M. 221.

Supervisors authorized to administer oath.—2337 C. L. '97; and may put any person under oath on any statement made to them. Authority of public officers to administer oaths in certain cases.—10396 C. L. '97.

See Secs. 100, 118, 150.

Assessors' blanks.

SEC. 19. (3842) In taking such assessment the supervisor or assessor shall use one of the following blank forms, as may be necessary:

Bankers and brokers.

Property of Bankers and Brokers.—The principal or accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock jobber shall make out and deliver to the assessor a statement which he shall verify by oath, showing:

Money.

1. The amount of money on hand and in transit;

Funds subject to draft.

2. The amount of funds in the hands of other bankers, brokers, or other persons, subject to draft;

Checks, etc.

3. The amount of checks and other cash items not included in either of the preceding items;

Bills receivable.

4. The amount of bills receivable, discounted or purchased, and other credits due or to become due;

Bonds and stocks.

5. The amount of bonds and stocks of every kind except United States bonds, and shares of capital stock of corporations or companies held as an investment or in any way representing assets;

Other property.

6. All other property appertaining to said business other than real estate;

Deposits. 7. The amount of all deposits made with them by other parties;

Accounts payable. 8. The amount of all accounts payable, other than current deposit accounts;

Real estate. 9. The description and value of all real estate owned by him or them.

Manner of determining personalty. The aggregate amounts of the seventh and eighth items shall be deducted from the aggregate amounts of the first, second, third and fourth items, and the remainder, if any, shall be assessed as moneys. The amount of the fifth item shall be assessed as stocks and bonds, and the sixth item shall be assessed the same as other similar property, and the assessor shall make a separate entry of each of these amounts (separate from the assessment of real estate) and the whole shall make up the aggregate personal assessment of such person, party or corporation.

Pawnbrokers. *For Pawnbrokers.*—Every person or company engaged in the business of receiving property in pledge or as security for money or other consideration or thing advanced to pawner of pledger, shall be held to be a pawnbroker and shall be required to make a statement and return under oath, reciting:

Stock in trade. 1. The value of all stock in trade actually owned by him or them and the true cash value thereof;

Pledges. 2. The amount and value of all property held in pawn for any pawner, pledger or customer;

Amount loaned. 3. The aggregate amount of money consideration or value paid and advanced by such pawnbroker thereon.

Value of pledges. And the amount of the true cash value of all such property, less the amount of consideration or value paid, shall be assessed as the property of such person or corporation.

Companies. *Property of Companies.*—The president, secretary or principal accounting officer of any company or association, incorporated or unincorporated, except railroad, insurance and telegraph companies and banking corporations, the taxation of which is specifically provided for by law, shall make out and deliver to the assessor a sworn statement setting forth the following:

Name, etc. 1. The name and location of the company, corporation or association;

Capital stock. 2. The amount of capital stock authorized and the number of shares into which the same is divided;

Actual capital. 3. The amount of capital actually paid in;

Value of stock. 4. The market value of the stock, or if they have no market value then the actual value of the shares of stock;

Personal property. 5. The cash value of all its personal property, giving each kind separately as far as practicable;

Indebtedness. 6. The total of all *bona fide* indebtedness, except indebtedness for current expenses, excluding from such expenses all amounts paid for the purchase or betterment of said property;

Real property. 7. The description and value of all real property.

The amount of the seventh item shall be deducted from the amount of the fourth item, and the balance, if any, assessed as

the cash value of the personal estate. The amount of the sixth item shall be deducted from the amount of the fifth item, and the balance, if any, assessed as personal. Manner of determining personality.

Vessel and Marine Property.—The president, secretary or principal owner of all navigation or transportation companies, and each and every owner of any vessel, steamboat, wharf boat, barge or water craft, shall make out and deliver to the assessor a sworn statement setting forth: Vessels, etc.

1. The name of the company; Company name.
2. The location of its principal office; Location.
3. The amount of capital stock paid in; Capital.
4. The cash value of such stock; Value of stock.
5. The name of each and every boat or vessel owned by such company or individual, with its insurance rate and value; Name and value of boats.
6. The value of all other personal property used and belonging therewith or thereto; Personal property.
7. The actual *bona fide* indebtedness upon every such boat or vessel separately; Indebtedness.
8. The value of all real property owned by such company or person, with the description of the same, if in his assessing district; Real estate.
9. The value of all franchises, slips or docks owned or used by such company or person. Franchises, docks, etc.

The actual value of all such property after deducting the amount of the seventh item shall be deemed the assessable value of such property. Assessable value.

In case of the refusal of the president, secretary, principal accounting officer or owner hereinbefore mentioned to make the statement or statements hereinbefore recited and required, the prosecuting attorney shall cause such person, on complaint of such assessing officer, to appear forthwith before a circuit court commissioner, who is hereby authorized to issue summons therefor and to order its service and to compel the attendance of said officer or person in obedience to such summons, and to examine them under oath, and make such investigation at the expense of such bank, corporation or person as may enable such commissioner and assessing officer to obtain the information provided for in this section. Examination of persons refusing to make statement.

For General Purposes.—Every owner of property liable to taxation under the provisions of this act, being of full age and sound mind, who is a resident of this State, shall make out and deliver to the supervisor or assessor on demand, a sworn statement of all the property owned or held by him, as follows: Sworn statement of property required.

REAL PROPERTY.

An accurate description of each parcel of land, with the number of acres contained therein. Realty.

PERSONAL PROPERTY—CREDITS.

Annuities royalties. Credits.

1. All annuities and royalties;

2. All credits of every kind owing to such person, whether such indebtedness is due from individuals or from corporations, public or private, and whether debtors reside within or without this State, including all deposits in banks or with other corporations or individuals; together with a statement of any part thereof that is secured by real estate mortgage on lands situated in some other state;

Indebtedness.

3. All *bona fide* indebtedness, owing by such person, giving an itemized statement in detail, how secured, and to whom owing, and the residence of such creditors and the amount due each, provided he desires to have the same deducted from his credits.

PERSONAL PROPERTY—CHATTELS.

Bank shares.

1. All shares in banks organized in this State under any law of this State or of the United States, and their cash value after deducting the value of the real estate taxed to banks;

Foreign stock.

2. All shares in foreign corporations, except national banks, and their cash value;

Shares in Michigan companies.

3. All shares in other corporations organized under the laws of this State when the property of such corporation is not exempt, or is not taxable to itself, and their cash value;

Moneys.

4. All moneys;

Jewelry.

5. The value of all gold and silver plate, watches, diamonds and jewelry;

Furniture.

6. The value of all household furniture, over and above exemptions;

Billiard tables, etc.

7. The number and value of all billiard tables and other personal property used in connection therewith, and all other similar property owned or in possession by him;

Patent rights.

8. All patent rights and their value;

Animals.

9. The number and kinds of domestic animals not exempt, and their value;

Carriages, etc.

10. All carriages and other vehicles, and sleighs kept for pleasure or hire, and their value;

Tools.

11. All mechanical and argicultural implements and tools, and their value;

Machinery.

12. All machinery not affixed to real property, and its value;

Boats.

13. All ships, boats and vessels, whether at home or abroad, and their value;

Merchandise.

14. All merchandise and stock in trade, including grain in elevators, and its value;

Logs, lumber, etc.

15. All logs, timber, lumber, posts and ties, and their value, where the same is situate on the second Monday in April, as near as may be, and the distinctive marks thereon, if any, and place of destination in this State;

Other property.

16. All other goods, chattels and personal property not heretofore specifically mentioned, and their value, except property specifically exempt from taxation;

17. All goods and chattels which are exempt from taxation; Exemptions.
18. All moneys or other personal property held as assignee, attorney, executor, guardian or agent, liable to taxation under the laws of this State; Property in trust.
19. The number of dogs of all kinds over six months old; Dogs.
20. The value of all elevators, warehouses and improvements on lands, the title to which is vested in any railroad corporation, and the value of the contents. Improvements on R. R. lands.

All the forms are delivered to assessors by the county treasurer. It is the duty of the assessor to furnish every person required to make such statement with a blank, and to either call for it or notify such person or company to present it to him at a specified time and place.

BANKERS AND BROKERS: Does not relate to incorporated banks, and the special rules for assessment of the property and stock of incorporated banks would not apply to the assessment of property listed under this section.

PAWNBROKERS: Personal property in pawn, being assessable to the pawnbroker, is not to be assessed to the owner.

PROPERTY OF COMPANIES: See notes to Secs. 5, 8, 11.

Section 19 relates exclusively to the statement made by persons, firms or corporations. This section, under the head of "property of companies" provides that any company or association incorporated or unincorporated, except railroads, insurance and telegraph companies and banking corporations, etc., shall make out and deliver to the assessor a sworn statement setting forth certain facts. The paragraph following Sub. 7 is a general rule authorized by the legislature for the purpose of ascertaining the personal property of a corporation for purposes of taxation where no other method is expressly provided for in the general tax law; but where in the general tax law the legislature has expressly provided how the property of certain corporations shall be assessed, then in that case the special provision governs. Sec. 19 is but a small part of the general tax law and in placing a construction upon it we must consider the whole act in so far as its several sections bear upon the particular point under consideration, and no literal construction can be resorted to that in any way violates the clear intent of the legislature. Whenever it conflicts with or contravenes any of the *express* provisions of said act in regard to the manner of making the assessment, the provision stating of what personal property shall consist and the exemptions provided for, then and to the extent of such contravention, it must give way to the more important and express provisions of the statute. For the purposes of taxation Sec. 8 expressly states what personal property shall include, and Sec. 9 as distinctly designates the personal property exemption. These sections apply to corporate property as well as to that of individuals. Under Sub. 6 of Sec. 8, and Sub. 5 of Sec. 9, indebtedness of either an individual, firm or a corporation *can only be deducted from credits.* If there are no credits shown in the statement of personal property there is nothing from which the debts can lawfully be deducted. When the personal property of a corporation has been ascertained by the assessing officer for purposes of taxation, pursuant to Sec. 19, or under the authority conferred upon him by Sec. 22, or both, he then assesses the personal property to the company or corporation as provided by Sec. 11, or according to the special provisions of the general tax law that may apply to the particular corporation assessed, and the real property is assessed as provided in Sec. 8.—Opinion of Attorney General Oren, March 28, 1900.

7124, 7142, 8508 and 8547 C. L. 97 providing for report as to stock, etc., of certain corporations are held by Attorney General to be superseded by this section.

VESSEL PROPERTY: See note to Sub. 4, Sec. 8.

GENERAL PURPOSES: PERSONAL PROPERTY—CREDITS—Sub. 3. It cannot be presumed that the assessor can have any personal knowledge of the amount of debts subject to deduction unless statement is furnished.—First National Bank of St. Joseph v. Township of St. Joseph, 46 M. 526.

SEC. 20. (3843) The supervisor or assessor shall not accept any of the statements herein above required as final or sufficient when such statement is not properly subscribed and sworn to, but shall preserve the same as in other cases, and such statement may be used in making the assessment and as evidence in any proceeding which may arise respecting the making of the assessment of the party furnishing such statement. Imperfect statements.

SEC. 21. (3844). Am. Act 154 of 1899. In every case Willful neglect.

when any person or member of any firm or officer of any corporation shall wilfully neglect or refuse to make out and deliver a true and correct sworn statement, under oath, administered by the supervisor or other assessing officer or members of the Board of State Tax Commissioners herein provided for or other officers or shall answer falsely or refuse to answer questions concerning his property or property under his control, as required by this act, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not less than thirty days nor more than six months, or by fine not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment in the discretion of the court.

Duty of assessor.

And it shall be the duty of the supervisor, assessing officer, and each member of the Board of State Tax Commissioners whenever he is satisfied that any person liable to make such assessing statement is justly liable to such penalty, to report the case to the prosecuting attorney of the county and make proper complaint for such prosecution.

Assessor may secure other testimony.

SEC. 22. (3845) Am. Act 154 of 1899. If the supervisor or assessing officer or a member of the Board of State Tax Commissioners shall be satisfied that any statement so made is incorrect, or if, by reason of absence or other cause, said sworn statement cannot be obtained from the person, firm or corporation whose property is so assessed, said supervisor, assessing officer or any member of the Board of State Tax Commissioners is hereby authorized and required to examine, on oath, to be administered by any of them any other person or persons whom he may have good reason to believe, and does believe has knowledge of the amount or value of any property owned, held or controlled by such person so neglecting or refusing or omitting to be examined or to furnish such statement, and such supervisor or assessing officer is hereby authorized to set down and assess to such person, firm or corporation so entitled to be assessed, such amount of real and personal property as he may deem reasonable and just.

Statement to be presented to board of review.

SEC. 23. (3846) All the statements herein required to be made and received by the supervisor or assessor shall be filed by him, and shall be presented to the board of review hereinafter provided for, or provided for in any act incorporating any town, village or city, for the use of said board, and after the assessment is reviewed and completed by such board of review,

Final disposition of statements.

all of the statements shall be deposited in the office of the township or city clerk, as the case may be, and shall be preserved until after the next assessment is made and completed, after which they may be destroyed upon the order of the township board or city or village council, but no such statement shall be used for any other purpose except the making of an assessment for taxes as herein provided, or for enforcing the

Unlawful use of statement.

provisions of this act, and any officer or person who shall make or allow to be made, wilfully or knowingly, any other or unlawful use of any such statement, shall be liable to the person

making such statement for all damages resulting from such unauthorized or unlawful use of such statement.

Where township clerk to keep records.—2338 C. L. '97. Supervisors shall keep all records and papers belonging to his office in a safe and suitable place, but not in any saloon, restaurant, public inn, hotel, place of public amusement, nor in any place where intoxicating liquors are kept or sold, or where gaming or plays of chance of any kind are carried on, or where they will be exposed to an unusual hazard from fire or theft.—2333 C. L. '97.

OF THE ASSESSMENT ROLL.

Assessment roll.

SEC. 24. (3847) Am. Act 262 of 1899. On or before the third Monday of May in each year, the supervisor or assessor shall make and complete an assessment roll, upon which he shall set down the name of every person liable to be taxed in his township or assessment district, with a full description of all the real property therein liable to be taxed. If the name of the owner or occupant of any such tract or parcel of real property is known, he shall enter the name of such owner or occupant, as in this act provided, opposite to the description thereof; in all other cases the real property described upon such roll shall be assessed as "owner unknown." All contiguous subdivisions of any section that are of equal value and are owned and occupied by one person, firm or corporation, and all unimproved lots in any block that are of equal value and are contiguous and owned and occupied by one person, firm or corporation shall be assessed as one parcel, unless demand in writing is made by the owner or occupant to have each subdivision of the section or each lot assessed separately; but failure to assess such contiguous parcels as entireties as herein provided shall not invalidate the assessment as made. Each description shall show as near as may be the number of acres contained in it, as determined by the supervisor. It shall not be necessary for the assessment roll to specify the quantity of land comprised in any town, city or village lot. The supervisor shall estimate, according to his best information and judgment, the true cash value of every parcel of real property and set the same down opposite such parcel. He shall also estimate the true cash value of all the personal property of each person, and set the same down opposite the name of such person. In determining the property to be assessed and in estimating such value, he shall not be bound to follow the statements of any person, but shall exercise his best judgment. Property assessed to one other than the owner shall be assessed separate from his property and shall show in what capacity it is assessed to him, whether as agent, guardian or otherwise. Two or more persons not being co-partners, owning personal property in common, may each be assessed severally for his portion thereof. Undivided interests in lands owned by tenants in common, or joint tenants not being co-partners, may be assessed to the owners thereof.

How made.

Contiguous lands.

Acreage.

Valuation.

Property assessed to agent, etc.

Partnership property.

Tenants in common, etc.

ASSESSMENT ROLL: The listing of property is clerical, but the ascertaining and determining its value is judicial, requiring the judgment of the supervisor, under his oath of office, and cannot be dispensed with in mak-

ing a valid assessment roll.—Woodman v. Auditor General, 52 M. 28. Supervisors cannot authorize another to copy the roll of a previous year in so far as real estate is concerned and attach and sign the statutory certificate, as the law requires the exercise of the supervisor's best judgment.—Paldi v. Paldi, 84 M. 346. The clerical work of making a roll may be done by any person acting under the direction of the supervisor or assessor; but the determination of what property shall be listed thereon must be the personal act of the assessor and must be performed after the exercise of due diligence by him in ascertaining the taxable property in his assessing district and the ownership and value thereof. The law leaves to the assessor no discretion as to the omission of property from the rolls. None is exempt except such as is especially exempted by the law, and all property not distinctly excepted must be assessed at its true cash value. Nor can the assessor right what he believes to be a wrong done the tax-payer by some previous assessment, by omitting or under-valuing his property.—Assessor's Manual, 50. Failure to list property in accordance with law is a wrong to all persons assessed, to the extent which it makes property assessed to them a larger proportion of the aggregate taxable property than it should have been; and in such case the levy would be jeopardized.—Moss v. Cummings, 44 M. 359.

Where by agreement between the supervisor and the board of review property was intentionally omitted from the assessment roll, an individual taxpayer is entitled to relief from the excessive amount of his tax.—Solomon v. Township of Oscoda, 77 M. 365. Where assessing officers have purposely in violation of law exempted property from taxation so the burden of taxation rests unequally, those who are wronged by this action (and all, except those whose property was insufficiently assessed, were wronged) are entitled to remedy against such wrong; certainly to such reduction of taxes as will make the burden no more than if favored property had been properly assessed. A willful or intentional violation of law by omission of property from assessment, or by its deliberate under-valuation, will not be treated in equity as an accidental omission or an honest mistake in judgment.—Walsh v. King, 74 M. 370.

NAME: Assignee vested with estate.—9670 C. L. '97. As to payment of debts by assignee (taxes included) see 9674 C. L. '97. Assessment in the name of other than the owner imputing ownership to the person so named, if made by the assessing officer knowingly for the purpose of defrauding or imposing an unjust tax on such person, might be assumed to be to his prejudice in the absence of a contrary showing.—Bradley v. Bouchard, 85 M. 18. A supervisor is not bound to take the statement of any person as to the ownership of land nor as to the person to whom it should be assessed, but may exercise his best judgment in determining these questions.—Meade v. Haines, 81 M. 261.

DESCRIPTION: See Sec. 25. As to assessment of large and remote areas of wild land, see Sawyer-Goodman Co. v. Crystal Falls, 56 M. 597.

VALUATION: See Sec. 116. There is a manifest tendency in many assessment districts to put upon the property of non-residents an undue proportion of the burden of taxation. By doing this the assessor very frequently lays the foundation for a contest which is sure to result either in the property assessed escaping taxation entirely, or in an expense attending the enforcement of payment which is equal to or in excess of the tax levied. By the ordinance of 1836 it was provided that "in no case shall non-resident proprietors be taxed higher than residents" (p. 66 C. L. '97). The enactment of this provision was one of the conditions upon which Michigan gained statehood. It has never been repealed, and never can be. More than this, it is a righteous enactment and the endeavor to evade its provision has cost the State dearly. It has also done serious injury to many localities by causing the withdrawal of investments and retarding development.—Assessor's Manual 10.

Assessing officers must inform themselves as far as possible of the true cash value of each parcel and must not assess non-residents differently from others.—Sawyer-Goodman Co. v. Township of Crystal Falls, 56 M. 597.

All assessments shall be on property at its cash value.—Sec. 12, Art. XIV. Constitution. This does not apply to a tax on business or occupation.—Walcott v. People, 17 M. 68; Kitson v. Mayor, 26 M. 325; nor to assessments for local improvements.—Woodbridge v. Detroit, 8 M. 274; Motz v. Detroit, 18 M. 495. This constitutional provision is as much designed to prevent over-valuation as under-valuation.—Avery v. East Saginaw, 44 M. 587.

Assessment on a false valuation is a public wrong, and ought to be redressed in a public prosecution.—Moss v. Cummings, 44 M. 359. If the supervisor of a township in making the assessment of property for taxation shall fraudulently and with the view to impose upon an individual more than his just proportion of the public burden of taxation, assess the property of such individual above its value and relatively above the other assessments on his roll, the party aggrieved may have an injunction to restrain the collection of the excessive tax.—Merrill v. Auditor General, 24 M. 170. Intentional underassessment of a certain class of property is invalid whether it be by agreement or in disregard of official duty.—Auditor General v. Jenkinson, 90 M. 522.

Where assessing officers and board of review omit personal property under value and omit certain real estate intentionally, the object and purpose being to throw a larger taxation upon certain classes of property and to aid and benefit the working properties and the residence properties, thus discriminating and not placing the assessment upon the question of valuation at all, but attempting to carry out a scheme, the entire assessment is void as to all persons who present objections.—Auditor General v. Pendill, 6 Det. Leg. News 1098.

The intentional omission from the tax roll of a township of $80,000 of personal property taxable therein, and the assessment of the real estate of the township at one-fourth its cash value invalidates State and county taxes levied upon lands in other townships which were assessed at cash value when the equitable amount due from a county tax cannot be ascertained.—Auditor General v. Prescott, 94 M. 190.

It is indispensable to the validity of an assessment that it should clearly show the valuation of, and the amount of taxes charged against each parcel of land.—Black on Tax Titles, 117. The value of property is to be estimated with reference to the advantages or profits that can, or may be derived from it.—Black on Tax Titles, 95.

Petitions for the reductions of valuations of townships cannot be regarded by the supervisors in the assessment of taxes.—Attorney General v. Sanilac Supervisors, 42 M. 72.

"While, in relation to most of the duties of assessors, they involve so much of judgment and discretion, and partake so much of the nature and character of judicial proceedings, that their judgment, exercised in good faith and without malice, is conclusive in their favor, yet in relation to setting real estate in the list to the owners or the persons liable to pay taxes thereon, so far as relates to the persons to whom the land is to be set and the number of acres, the assessors are bound to act in good faith, and with common care, skill and prudence, and if they so act they are not liable for mistakes or inaccuracies, but if not, they are liable to the party injured for the consequences of such mistakes, oversights or inaccuracies."—Black on Tax Titles, 122. "A discretionary power cannot excuse an officer for refusing to exercise his discretion. His judgment is appealed to, not his resentment, his cupidity or his malice. He is the instrument of the law to accomplish a particular end through specified means; and when he purposely steps aside from his duty to inflict a wanton injury, the confidence reposed in him has not disarmed the law of the means of prevention. His judgment may indeed be final if he shall exercise it, but an arbitrary and capricious exertion of official authority, being without law, and done to defeat the purpose of the law, must, like all other wrongs, be subject to the law's correction."—Merrill v. Auditor General, 24 M. 170. But the assessor is both morally and legally bound to seek the fullest light upon his duties. "He who ignorantly does an injury shall knowingly make reparation."—Miller v. Aldrich, 31 M. 408. A public officer is liable to private individuals for injuries resulting to the latter from his failure to perform ministerial duties in which the latter have a special and direct interest. He is also liable for a failure to perform duties of a judicial nature, if he neglects them maliciously.—Raynesford v. Phelps, 43 M. 342. A supervisor, when acting as assessor, is a quasi judicial officer, and in the exercise of his judicial duties he cannot be held liable in a suit at law for errors he may have made.—Meade v. Haines, 81 M. 261. When the assessor acts in good faith and intelligently exercises his best judgment, the law protects him. An individual has no right of action against an assessor to impeach his assessment, except on the ground of fraud or malice.—Moss v. Cummings, 44 M. 360. But he cannot ignore common sense and ordinary experience in discharging his duties.—Medina v. Perkins, 48 M. 67. The assessor is not required to perform impossibilities.—Peninsula Iron Co. v. Crystal Falls, 60 M. 510. But he must use due diligence.

See Secs. 14, 99, 130.

SEC. 25. (3848) The description of real property may be as follows, viz.: **Description of realty.**

1. If the land to be assessed be an entire section, it may be described by the number of the section, township and range; **Sectional descriptions.**

2. If the tract be the subdivision of a section authorized by the United States for the sale of public lands, it may be described by the designation of such subdivision, with the number of the section, township and range; **Subdivisions.**

3. If the tract be less or other than such subdivision, it may be described as a distinct part of such subdivision, or by designation of the lot or other lands by which it is bounded, or in some way by which it may distinctly be known; **Irregular parcels.**

4. In case of land platted or laid out as a town, city or village, or as an addition to a town, city or village, the same may be described by reference to such plat and by the number of the lots and blocks thereof, whether such plat be recorded or not; **Land platted.**

5. When two or more parcels of land adjoin and are used and occupied together, they may be assessed by one valuation; **Adjoining lands.**

Described as known.

6. Lands may be designated by any description by which they may be known;

Abbreviations.

7. It shall be sufficient to describe the real property assessed upon any roll and in all other proceedings under this act, in the manner heretofore in use by initials, letters, abbreviations and figures.

SUB. 1. "Township" means surveyed township.—Manistee Lumber Co. v. Township of Springfield, 92 M. 277.

SUB. 2. "East ½" or "West ½" as used in government surveys have no reference to quantity, but fixes the dividing line equi-distant between boundaries.—Jones v. Pashby, 62 M. 614. So a "½" containing more or less than a natural acreage (such as usually occur on the north and west boundaries of townships) should be described as "fractional ½." In entering subdivisions of a section or subdivisions of a quarter-section commence at the N. E. ¼, then the N. W. ¼, then the S. W. ¼, ending with S. E. ¼.

SUB. 3. Land described on government plats by number is not properly designated otherwise.—King v. Potter, 18 M. 134. Land described as bounded on designated side by a given county drain sufficiently described.—Husted v. Willoughby, 117 M. 56. Provision for description "by designation of the lands by which it is bounded" has reference to cases in which the tract is not known by name or number and in which such a description would be the most likely to attract attention of the person interested in the payment of the tax.—Gilman v. Riopelle, 18 M. 145. See also Amberg v. Rogers, 9 M. 332. A description of a part of given tracts must clearly define the specific and determinate parts intended. Such a description as "E. part of S. E. ¼ of N. W. ¼, etc. 10 acres" should never be used unless the 10 acres intended is the E. 10 acres having a regular west boundary, i. e., bounded by a line running due north and south. If the west boundary be irregular (as by a road or stream) it should be described, say as "that part of the S. E. ¼ of the N. W. ¼, etc., lying east of (here give the west boundary), 10 acres."

SUB. 4. Lots and blocks defined.—Anderson v. Baughman, 7 M. 76. Title of recorded plats must be fully given as in register's records.—Burrowes v. Gibson, 42 M. 121; Jackson v. Sloman, 117 M. 126. See note Sub. 7. In making the assessment roll care should be taken to place each description under its proper heading. City or village property must be placed under its proper heading, particular attention being paid to the several subdivisions, each of which should be distinctly described. In townships the section number should be written opposite each description, and not omitted or indicated by ditto marks.

Lands situated in "Hoyt's plat of East Saginaw" held to be sufficiently described as in "Hoyt's plat, City of Saginaw," the two cities being consolidated.—Wilkin v. Keith, 6 Det. Leg. News 305.

Plats.—3372-89, C. L. '97.

SUB. 5. A dwelling house with the land and appurtenances occupied with it, a warehouse so occupied, a farm or other parcel of real estate let to the same tenant by one and the same lease, parcels detached from each other and used and occupied for different purposes, may respectively be regarded as separate and distinct estates, to be distinctly valued and assessed.—Shaw C. J., in Hayden v. Foster, 13 Pick. 432, 497. In the case of adjacent unimproved lands, assessment as one parcel of such land as was purchased by the owner as one parcel (if the entire be within the assessing district) is sufficient, though by the government survey it was divided. While lands may lawfully be divided into the lowest legal subdivisions, this should be avoided where contiguous lands are known to belong to one owner. Separate and distinct parcels must be assessed and valued separately, and omission to do so is not a mere irregularity. But parcels in two sections should not be assessed together, even though contiguous and owned and occupied by the same person.

See Sec. 24.

SUB. 6. Descriptions do not identify of themselves but only furnish the means of identification.—Willey v. Snyder, 34 M. 60. Falsity in description affects all subsequent proceedings. A tax sale of property that is misdescribed in the assessment roll will be wholly invalid.—Black on Tax Titles, 112. Descriptions must be so definite and certain as not to require extrinsic proof. The requirements as to description in tax proceedings are not only aimed at securing an identification of the property that will be certain but are designed to afford notice to the owner, and therefore should be such as not to mislead by departure from strict accuracy.—Jackson v. Sloman, 117 M. 126.

Where acreage property is described the acreage must be correctly given. Exceptions noted in the description must be clearly defined. Failure to do this is the occasion of much trouble in tax records. If there is exempt property within the area described—for instance, if a railroad crosses the land, or a schoolhouse site is located thereon, the exception must be distinctly designated and the acreage assessed correctly stated.

Properties which are crossed by railroads should not be assessed as one parcel without any reference to the railroad. There should be excepted from these assessments the right of way of the railroad company. It would be safer to assess that portion of the forty lying east or west of north or south of the railroad, as the case may be, separately, treating them as separate

parcels of land, there being another owner or occupant coming in between. At all events they should except the right of way of the railroad company. That the railroad company is an occupant of this land there can be no question and therefore land thus severed should not be assessed as one parcel. It is certainly safer to treat land thus crossed as different parcels.—Opinion of Hon. John W. Stone, Circuit Judge 25th Judicial District; quoted in Auditor General v. Pendill, 6 Det. Leg. News, 1098.

"Thence running to the rear of the said" land does not necessarily mean that parcel is bounded by the rear line of the land referred to, but may simply indicate the direction of the boundary; as if the word "toward" were used instead of "to," and is therefore indefinite.—Moran v. Lezotte, 84 M. 83.

"Any description by which they may be known" should be understood to mean description by which any person may know the land. The owner may be, in the common acceptance of the term, a stranger to the land, and the description must be given with sufficient particularity to afford means of identification. One of the worst forms of description in common use is that in which a piece of land is described as "bounded north by Savage, east by Davis, south by Shier and west by Schaufele." There are hundreds of such descriptions on the records of delinquent tax lands, the same land being held for various years, but described as bounded by the lands of different persons as changes of ownership have occurred, and it is impossible to bring the several years together in the absence of the records which show changes of ownership. While doubtless many of these descriptions are not fatally defective, they are the occasion of much trouble and uncertainty and should be avoided as far as possible. A much better description would be to start from a point so described as to be geographically located with certainty and from there to go from point to point by natural stages until the starting point is again reached.—Assessor's Manual, 55. Description of building is no description of the lot.—Lefevre v. Mayor, 2 M. 586. Description must be sufficient to fit and comprehend the property.—Eggleston v. Wagnoer, 46 M. 618. Land described "less lots sold" cannot be held bound.—Hubbard v. Winsor, 15 M. 146. But where a misdescription of lands in an assessment roll was caused by following a list furnished by the parties themselves, they were not allowed to claim it as a ground of equitable relief and were remitted to their legal remedies.—Ibid. Further as to description, see Mann v. Carson, 6 Det. Leg. News 288.

SUB. 7. A deed is not invalid because of the description of the land being in figures and well understood abbreviations. But abbreviations, if used, must be such as are in common use.—Harrington v. Fish, 10 M. 415; Sibley v. Smith, 2 M. 486. Abbreviations unusual in land descriptions (as "q" or "qr" for "¼") must be avoided. As to fractional description see Donahue v. Klassner, 22 M. 255; AuGres Boom Co. v. Whitney, 26 M. 42; Dart v. Barbour, 22 M. 271. Further as to abbreviations in roll see Auditor General v. Sparrow, 116 M. 574.

See Sec. 99.

Personal property.

SEC. 26. (3849) The description of personal property on said roll may be made by using the word "personal," except in cases heretofore mentioned, or in the assessing of any dog tax authorized by law, in which case the kind of property assessed shall be properly designated upon the roll.

Enumeration of personal property is surplusage and does not affect the validity of the assessment.—Comstock v. Grand Rapids, 54 M. 641.
Provision as to dog tax is superseded by Act 222 of 1899.

"Cash value" defined.

SEC. 27. (3850) The words "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale. In determining the value the assessor shall also consider the advantages and disadvantages of location, quality of soil, quantity and value of standing timber, water power and privileges, mines, minerals, quarries or other valuable deposits known to be available therein and their value.

Location and appurtenances.

The constitutional provision requiring assessments to be made on property at its cash value means not only what may be put to valuable uses, but what has a recognized pecuniary value inherent in itself, and not enhanced or diminished according to the person who owns or uses it.—Perry v. Big Rapids, 67 M. 146. Assessments upon anything but the true cash value of property are illegal and in violation of the assessor's official oath.—Wattles v. Lapeer, 40 M. 624.

In determining the true cash value of land the value of standing timber should be included.—Fletcher v. Township of Alcona, 72 M. 18. The rule should be applied universally. If another than one holding title to the land or possession thereof claims an interest in standing timber or other products or deposits on the land, the owner or person in possession must secure relief from the burden of taxation through mutual agreement between himself and the owner of such products or deposits; the assessor cannot consider such claims.—Assessor's Manual, 56.

See Secs. 2, 74.

OF THE BOARD OF REVIEW.

Board of review.

Election of.

Supervisor to be member.

Vacancies.

Quorum, etc.

SEC. 28. (3851) At the annual township meeting held on the first Monday of April in the year eighteen hundred and ninety-four, there shall be elected by ballot, on the regular township ticket, two suitable electors of the township to serve as members of the board of review, one of whom shall be elected for one year, and one for two years, and annually thereafter one member shall be elected for two years, who shall take the constitutional oath of office as other township officers. The supervisor and the two electors so elected shall constitute a board of review for such township. The township board may temporarily fill any vacancy which shall occur in the membership of said board of review, but no member of such township board shall be eligible to fill such vacancy. A majority of said board of review shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and a majority vote of those present shall decide all questions.

For board of review in cities see Sec. 107.

Time of meeting.

Supervisor to submit roll.

Board to correct and perfect roll.

SEC. 29. (3852) On the Tuesday next following the third Monday in May, the board of review of each township shall meet at the office of the supervisor; at which time the supervisor shall submit to said board the assessment roll for the current year, as prepared by him, and the said board shall proceed to examine and review the same, and during that day, and the day following if necessary, said board of its own motion, or on sufficient cause being shown by any person, shall add to said roll the names of persons, the value of personal property, and the description and value of real property liable to assessment in said township, omitted from such assessment roll; they shall correct all errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provisions of this act. The board shall pass upon each valuation and each interest, and shall enter the valuation of each, as fixed by it, in a separate column. The roll as prepared by the supervisor shall stand as approved and adopted as the act of the board of review, except as changed by a vote as herein provided. If for any cause a quorum does not assemble during the days above mentioned, the roll as prepared by the supervisor shall stand as if approved by the board of review.

Supervisor's roll to stand as approved.

Exceptions.

Board action must be joint, not individual.—Cooley on Taxation, 257. Boards are as closely limited to the exercise of the authority definitely given them by statutes as are individual officers. The board of review must act strictly within the authority given them by the tax law.—They derive no authority

from any other source and have none to make any changes in the assessment roll not specifically given them by said act. For instance, they have no authority to set aside an assessment upon the ground of want of power in the municipality levying it.—Assessor's Manual, 58.

No legal agreement can be made with the board of review by which the whole or any part of a township shall be assessed at a uniform value.—Auditor General v. Ayer, 6 Det. Leg. News 688.

Whether an assessment is excessive is a question for the board of review and not for the courts.—Caledonia v. Rose, 94 M. 216. One is not bound to notice or appeal from an assessment of personal taxes against him if jurisdiction to assess them does not exist.—Williams v. Saginaw, 51 M. 120. When a person is over-taxed for some property and under-taxed for other property on the same roll for an equal or greater amount he is not entitled to abatement. He can claim relief only if the assessment is injurious to him.—Assessor's Manual, 58.

The board of review are not required to base their conclusions upon sworn testimony only. They may act upon their own personal examination or upon any evidence satisfactory to them.—Griswold v. School District, 24 M. 262. In Dryer v. Board of Review, Mich. Mand. Cases 1283, mandamus issued to compel respondents to place upon the assessment roll so much of certain real estate belonging to incorporated body whose property used for the purposes of its incorporation was exempt, as was not so used but rented for mercantile business.

The provision requiring the board of review to meet upon specified days for review, etc., is mandatory.—Caledonia v. Rose, 94 M. 216. See also Secs. 99, 130, 159. For time of meeting see also Secs. 30 and 32.

Second meeting.

SEC. 30. (3853) Said board of review shall also meet at the office of the supervisor on the fourth Monday in May at nine o'clock in the forenoon ,and continue in session during the day and the day following. Such board shall continue its sessions at least six hours each day, and at the request of any person whose property is assessed thereon or of his agent, and on sufficient cause being shown, shall correct the assessment as to such property, in such manner as in their judgment will make the valuation thereof relatively just and equal. To that end said board may examine on oath the person making such application, or any other person, touching the matter. Any member of said board may administer such oath. After said board shall complete the review of said roll, a majority of said board shall endorse thereon and sign a statement to the effect that the same is the assessment roll of said township for the year in which it has been prepared and approved by the board of review. Said statement may be in the following form, viz.:

Corrections on request.

Evidence under oath.

Endorsement of roll.

"Assessment roll of the township of....., for the year 18... as approved by the board of review.

Form.

"Dated..... .....

.....

.....

.....

"Board of Review."

A tax-payer has the right to assume that the board of review will remain in session the full statutory time and to arrange to be present at his pleasure within that time; and if he is prevented by failure of the board to perform this duty, the tax levied against him is void.—Caledonia v. Rose, 94 M. 216. Provision that board shall "continue in session during the day and day following" is mandatory; and where property owner is deprived of a hearing by the illegal adjournment of the board the first day, there is no jurisdiction to levy taxes on his property.—Auditor General v. Chandler, 108 M. 569. Where owner appeared at place of meeting of board of review on fourth Monday in May but failed to attend session on following day, he cannot be heard to complain on ground that he was deprived of his day in court. Tax is not rendered void because of failure of board to convene on first day.—Wright v. Auditor General, 118 M. 556. Final action by the board of review cannot be had after the expiration of the time the statute allows the board to be in session.

The tax-payer must be allowed, before the assessment roll is completed, the opportunity of seeing what assessments have been made against his property, and the privilege of showing that the proposed assessment is for any cause illegal or unjust.—Woodman v. Auditor General, 52 M. 28. Tax-payers

cannot lawfully be deprived of rights to hearing by board of review.—Common Council v. Smith, 99 M. 507. Any person may have redress against unjust or unequal valuation of property on the roll to his injury, whether by over-valuation of his own property or an under-valuation of that of others. Parties whose property is to be taken by summary tax proceedings are entitled as of right to be heard at some stage of the proceedings before the tax becomes an established charge against them or their property.—Thomas v. Gain, 35 M. 155.

When the board of review has reduced an assessment, its action is final and cannot be changed, if at all, without giving the party a further hearing. The new increase is an excess of jurisdiction and no valid action can rest on it, against the party so injured.—Phillips v. Township New Buffalo, 64 M. 683. Where board of review changes valuations after its authority to do so has expired, the entire tax will be rendered invalid. Omission of valuation in roll by supervisor will not render tax invalid where board of review seasonably supplied the defect. But a change of valuations by the board of review upon its own motion after the expiration of the time allowed for that purpose invalidates the entire tax; and the addition of land to a roll by the board after the expiration of such period invalidates the tax as to the lands so added.—Auditor General v. Sparrow, 116 M. 574.

Each case is heard by itself, and when disposed of the party is no longer under obligations to watch proceedings of the board.—Griswold v. School District, 24 M. 262. The board cannot refuse to consider the claim of a taxpayer if presented in writing or by an agent or attorney, because he does not appear in person and submit to an examination; but if it has good reason for so doing, it may declare the proof adduced insufficient.

A tax-payer must avail himself of his right to appeal to the board of review or he will have no standing in court when seeking there for abatement of tax or redress of a wrong done him by the assessment, except when he can show fraud or bad faith on the part of the assessor.—Peninsula Iron Co. v. Crystal Falls, 60 M. 510; Meade v. Haines, 81 M. 261; Brown v. Grand Rapids, 83 M. 101; Smith v. Carlow, 114 M. 67. If a tax-payer does not have his assessment corrected and perfected when it is in his power to do so, his failure must be assumed to admit its correctness.—First National Bank of St. Joseph v. Township of St. Joseph, 46 M. 526; Detroit River Savings Bank v. Detroit, 114 M. 81. Boards of review are the proper tribunals for the correction of unjust assessment, and parties will not be heard in the courts until they have exhausted their remedy before these tribunals.—Michigan Savings Bank v. City of Detroit, 107 M. 246.

One cannot complain that the assessment was in name of wrong person, or of any other irregularities which board of review might have corrected had application been made to it.—Hinds v. Township of Belvidere, 107 M. 664; Auditor General v. Keweenaw Asso., 107 M. 405. Where property owner rightfully assessed examines assessment at time of meeting of board of review and expresses himself satisfied therewith, one who succeeds to his rights and obligations in the premises cannot complain that the assessment is too high or was not properly reviewed.—Hamilton v. Ames, 74 M. 298.

Mandamus will not be granted to compel the assessment of taxable property which has been omitted from the roll, at a time when the owner will be deprived of right of a review of the assessment.—Maurer v. Cliff, 94 M. 194.

The presumption that all necessary papers were made and filed is overcome by the production of the assessment rolls with an unsigned certificate attached, and the showing is fatal.—Dickison v. Reynolds, 48 M. 159. No presumption that roll contains certificate, where roll introduced lacks certain leaves and the certificate.—Newkirk v. Fisher, 72 M. 113. The necessity for the several sheets of the assessment rolls being properly attached to each other, by sewing or binding, is evident.

Certificate signed by majority of the board is sufficient.—Mills v. Township of Richland, 72 M. 100. The proper certificate duly signed and pasted to the roll is compliance with the statute.—Darmstaetter v. Maloney, 45 M. 621. That certificate is dated on last review day does not necessarily show that it was premature.—Yelverton v. Steele, 36 M. 62. As to date of certificate see Dickison v. Reynolds, 48 M. 159.

Statutory certificate of taxing officers cannot be contradicted in collateral proceedings—Tompkins v. Johnson, 75 M. 181.

See Sec. 99.

Completed roll valid.

SEC. 31. (3854) Upon the completion of said roll and its indorsement in manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes hereinafter mentioned. The omission of such indorsement shall not affect the validity of such roll.

Certiorari will not lie to bring tax proceedings before the supreme court for review.—Whitbeck v. Hudson, 50 M. 86; Hudson Common Council v. Whitney, 53 M. 158; Burnett v. Drain Commissioner, 56 M. 314.

Certificate of equalization does not form a part of assessment roll.—Tweed v. Metcalf, 4 M. 579. But must be written or printed on or affixed thereto.—Sec. 34.

The too frequent practice of indicating changes made by the board of review by mere note made of the new valuation, or of the correction of an erroneous description cannot be too strongly deprecated. Such correction is in no proper sense a "completion" of the roll. The law does not in express terms provide that the board endorse their amendment of the roll in ink, nor that they foot it and place the total amount at the foot of the several columns; but anything less than this lacks much of "completion," nor should the concluding sentence of this section be made the excuse for failure to indorse the roll, as provided in Sec. 30.

Absent members.

SEC. 32. (3855) If from any cause a quorum shall not be present at any meeting of the board of review, it shall be the duty of the supervisor, or, in his absence, any other member of the board present, to notify each absent member to attend at once, and it shall be the duty of the member so notified to attend without delay. If from any cause the second meeting of such board of review herein provided for is not held at the time fixed therefor, then and in that case it shall meet on the next Monday thereafter, and proceed in the same manner and with like powers as if such meeting had been held as hereinbefore provided.

Second meeting.

Records of board.

SEC. 33. (3856) The supervisor or clerk of said board of review shall keep a record of the proceedings of the board and of all the changes made in such assessment roll, and shall file the same with the township or city clerk with the statements made by persons assessed.

EQUALIZATION BY COUNTIES.

Equalization by supervisors.

SEC. 34. (3857) The board of supervisors in each county shall, at their session in October in each year, examine the assessment rolls of the several townships, wards, or cities, and ascertain whether the relative valuation of the real property in the respective townships, wards, or cities, has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in any township, ward, or city, or townships, wards, or cities, such an amount as in their judgment will produce relatively an equal and uniform valuation of the real property in the county, and the amount added to or deducted from the valuation in any township, ward, or city, shall be entered upon the records. They shall also cause to be entered upon their records the aggregate valuation of the taxable real and personal property of each township, ward, or city in their county as determined by them. The board shall also make such alterations in the description of any lands upon such rolls as may be necessary to render such description conformable to the requirements of this act. After such rolls shall have been equalized, each shall be certified to by the chairman and clerk of the board and be delivered to the supervisor of the proper township, ward, or city, who shall file and keep the same in his office.

Aggregate valuation.

Correction of descriptions.

Certification.

To whom delivered.

Failure to comply with the statutory requirement of equalization by the board of supervisors invalidates the tax. Informal action which is not recorded will not answer the requirements.—Yelverton v. Steele, 36 M. 62. The power of equalization by board of supervisors being confined to the real

estate and the whole subject being under their complete jurisdiction, they may adopt their own means of reaching the result. When any alteration is made in the aggregate valuation of the real estate, the additions or deductions so made may be expressed in any form which may by calculation be reduced to a percentage."Determining the aggregate" involves the necessity of footing the personal estate as valued by the supervisors and the real estate at the amount determined by equalization.—Case v. Dean, 16 M. 12. See also Williams v. Mears, 61 M. 86. If no changes are required it is only necessary to enter upon the record the aggregate valuation of real and personal property of each township, as determined by the board.—Chamberlain v. St. Ignace, 92 M. 332; Hoffman v. Lynburn, 104 M. 494. The statute contemplates that additions or deductions in equalizing will be added to or deducted from the aggregate valuation of all taxable property in the township.—Boyce v. Sebring, 66 M. 210.

It is competent for the board to reduce the aggregate of the assessments below that of the assessors'.—Tweed v. Metcalf, 4 M. 579. The board of equalization has no authority over individual assessments. The provision relative to making descriptions conformable to the requirements of the law is one of vital importance and should have careful attention.

A record of equalization must show the assessed valuation of the several townships and the amount added to or deducted therefrom, else is fatally defective and voids the entire levy for the year.—Auditor General v. Roberts, and Auditor General v. Reynolds, 83 M. 471; Chamberlain v. St. Ignace, 92 M. 332. A record of equalization which shows only "real estate assessed," "real estate equalized," "total estate assessed," "total estate equalized," is too uncertain to have any value as a public record.—Paldi v. Paldi, 84 M. 346. The certificate of equalization must be entered upon the several assessment rolls and signed after such entry. In Westbrook v. Miller, 64 M. 129, the tax sale and deeds were held void where the chairman of the board of supervisors signed blank certificates of equalization and left them to the county clerk to fill and forward to supervisors.

The failure of the chairman of the board of supervisors to sign the record of equalization and apportionment of State tax is fatal to the validity of the tax deed.—Weston v. Monroe, 84 M. 341. The evidence of two witnesses who testify positively that proceedings for equalization, etc., were not signed by chairmen of boards during their respective terms of office, carries more weight of evidence than that of the two chairmen, who did not remember when they signed, but were confident it was not after their term had expired, notwithstanding the presumption as to official acts.—Auditor General v. Hill, 97 M. 80.

The power to equalize is exclusive in the board of supervisors.—Attorney General v. Sanilac Supervisors, 42 M. 72. The action of the board of supervisors in equalizing the assessment cannot be reviewed by the courts. Fraudulent disregard of their duties may warrant resort to the criminal law or to other remedy; but the correctness of their review cannot be considered by any body. The question of valuation rests with the judgment of the board.—McDonald v. Escanaba, 62 M. 555.

The assessment roll is a public record to be retained by the supervisor intact and to be turned over to his successor with the other records and official properties of his office. In the case of Albany & Boston Mining Co. v. Auditor General, 37 M. 391, the supervisor took the assessment roll of 1873 which was in his office, and with a blue pencil made such changes and alterations thereon in valuation and otherwise as he deemed necessary and thus made the roll for 1874. The court says: "It was highly improper, if not criminal, for the supervisor to make any changes, alterations or additions in or to the original assessment roll of 1873, required by law to be kept in his office."

The certificate of equalization properly signed and affixed to the assessment rolls is a prerequisite to the making of a valid tax roll.—Maxwell v. Paine, 53 M. 30. Supervisors have absolute and exclusive right to the possession of the rolls and are authorized to bring suit in their official characters to recover possession of them.—Phenix v. Clark, 2 M. 327.

A meeting of the board of supervisors for the year 1891 shall be held on the fourth Monday of June, and on the fourth Monday of June every fifth year thereafter; and when convened the board shall proceed to equalize the assessment rolls; and each of said supervisors shall add up the columns of their respective rolls, enumerating the number of acres of land and the value of the real estate and personal property assessed, so as to show the aggregate of each.—134 C. L. '97. Where equalization was made at June session (preceding meeting of State Board of Equalization) failure to equalize at October session (in the same year) is not fatal.—Silsbee v. Stockle, 44 M. 561; Boyce v. Sebring, 66 M. 210.

See Sec. 35, 99.

OF TAXES, HOW AND BY WHOM CERTIFIED.

State taxes.

SEC. 35. (3858) On or before the first day of September in each year the Auditor General shall make and record in his office a statement showing the taxes to be raised for State purposes that year, referring to the law on which each tax is based,

and the total amount of such taxes. The State tax he shall apportion among the several counties in proportion to the valuation of the taxable property therein as determined by the last preceding State board of equalization, and shall before the October session of the board of supervisors in each year make out and transmit to the clerk of each county a statement of the amount of such taxes so apportioned to such county. He shall also, in a separate item of said statement, set forth the amount of indebtedness of such county to the State as shown by the statement of the account between the county and the State made by the Auditor General on the first day of July next previous to such apportionment, which amount shall be apportioned by the board of supervisors of the proper county at the same time as State taxes contained in said apportionment of the Auditor General, and shall be levied in the same manner as and become a portion of the county taxes for the same year, unless the said indebtedness shall have been paid to the State before October first: *Provided*, That such portion thereof, if any, as should be assessed to a particular township, shall be apportioned to and assessed upon such township, ward or city.

Auditor General to apportion.

Basis of apportionment.

County indebtedness to State.

To be portion of county tax.

Proviso.

Auditor General is bound to take notice of statutes changing county boundaries and creating new counties, and is bound to know what land falls in each and should apportion the State tax upon the basis of the assessed value of the land in each as last equalized.—Ontonagon Supervisors v. Gogebic Supervisors, 74 M. 721. State Board of Equalization.—129 e. s. C. L. '97. Auditor General should anticipate the existence of a new county which has been organized by legislative act in the apportionment of the State taxes and make apportionment accordingly.—Auditor General v. Menominee Supervisors, 89 M. 552. As to organization of new counties, see notes to Sec. 105.

When a statement of account between a county and the State showing a debt due the State is correctly and regularly made and the ascertained amount is seasonably certified in due form to the clerk of the county, it is the duty of the board of supervisors at once to make proper apportionment, and if they shall refuse to do so, they may be compelled by mandamus.—Auditor General v. Jackson Supervisors, 24 M. 237. Duty of board of supervisors within twenty days after indebtedness to State is certified to proper county officers to levy a tax to pay such indebtedness or to submit to vote of people the issue of bonds for that purpose.—2487 C. L. '97. Services of troops in aid of civil authorities,—1623 C. L. '97.

See Sec. 99.

SEC. 36. (3859) It shall be the duty of the township clerk of each township, on or before the first day of October of each year, to make and deliver to the supervisor of his township, a certified copy of all statements and certificates on file, and of all records of any vote or resolution in his office authorizing or directing moneys to be raised therein by taxation for township, school, highway, drain, and all other purposes, together with a statement of the aggregate amount thereof, and such certified copies shall, by such supervisor, be delivered to the clerk of the county on or before the second Monday of said month, and the same shall by said clerk be laid before the board of supervisors at its annual meeting and filed in his office.

Duties of township clerk.

Duties of supervisor and county clerk.

TOWNSHIP TAXES: The clerk's certificate of record of the vote of township board is to be executed and delivered in time for delivery to the county clerk before the meeting of the board of supervisors on or before the second Monday in October.—Peninsula Iron Co. v. Crystal Falls, 60 M. 510. A township board has special and limited authority, which must appear upon the face of the record.—Harding v. Bader, 75 M. 316. The presumption is in favor of the express terms of the record where no clerical error is shown, nor can

a record be contradicted or varied by parol evidence.—Michigan Land Co. v. Republic Township, 65 M. 628. Where clerk's certificate is regular on its face and nothing is shown to invalidate the proceedings prior thereto, it is conclusive upon the supervisor and it makes it his duty to assess the tax and to issue his warrant for its collection. In case of issue by clerk of certificate unauthorized by law, supervisor is bound to take notice of the total absence of such legal authority.—Smith v. Crittenden, 16 M. 152.

If the several amounts to be raised are stated in township clerk's certificate, his omission to aggregate the taxes is unimportant.—Boyce v. Auditor General, 90 M. 314.

Township may vote not to exceed $1,000 for contingent or ordinary expenses. —2269 C. L. '97; but no more except as voted for specific purposes. Action of township board under statute authorizing them to vote money to defray twp. expenses must be had at a regular meeting.—Peninsula Iron Co. v. Crystal Falls, 60 M. 510. Time and manner of voting township taxes.—2309 C. L. '97. Township taxes voted by township board before submission are invalid.—Auditor General v. Sparrow, 116 M. 574. When electors neglect or refuse to vote money for ordinary township expenses, township board may, at regular meeting, vote necessary amount but no more than might have been voted by electors.—2349 C. L. '97. Township may vote not exceeding 1 per cent on assessed valuation upon prior notice for erecting public buildings.—2270 C. L. '97; requires a majority of qualified electors voting.

Neglect or refusal of electors to vote money for ordinary township expenses must appear upon record of township board to authorize board to vote same, and record of meeting at which board voted must show that all members were present or notified.—Harding v. Bader, 75 M. 316; Auditor General v. McArthur, 87 M. 457. There is no presumption that electors refused or neglected to vote sufficient funds to defray ordinary expenses, and where township board votes money for that purpose the record must affirmatively show such neglect or refusal; and the same rule applies to the voting of a money tax for highway purposes.—Newaygo Mfg. Co. v. Echtinaw, 81 M. 416. Electors cannot be held to have neglected or refused to vote moneys for the contingent or poor funds when these items were not submitted to them; and the township board has no authority to vote either except upon such neglect or refusal.—Tillotson v. Webber, 96 M. 144; Auditor General v. D. S. S. & A. R. R. Co., 116 M. 122.

Township record showing vote of highway and contingent taxes upon the day of the annual township meeting sufficiently shows that the action taken was that of the electors, and it will be presumed that it was taken at the time provided by statute.—Auditor General v. Longyear, 110 M. 223. Further as to voting taxes, Crittenden v. Robertson, 13 M. 58; People v. Township Board of Woodhull, 14 M. 28.

Compensation of township officers.—2374-5 C. L. '97. Protection of orchards and vineyards.—5688 C. L. '97. Destruction of noxious weeds.—3499, 3505 C. L. '97. See 4174 C. L. '97, Am. Act 220, 1899.—Expense to be assessed against lands.—5715 C. L. '97. Cutting milkweed.—5719 C. L. '97; expense, how assessed.—5724 C. L. '97. Establishing section corners assessed upon real estate.—2511 C. L. '97. Relocating and perpetuating section corners when desired by resident owners, to be assessed upon lands of persons refusing to pay.—2627 C. L. '97; Act 248 of 1899. Repair, etc., of fences, to be assessed to land of person neglecting to pay.—2418 e. s. C. L. '97; Gilson v. Munson, 114 M. 671. Support of poor.—4547-8 C. L. '97. Maintenance of charges at county poorhouse.—4544 C. L. '97.

Payment of railroad aid bonds.—3986 e. s. C. L. '97. Payment of town bonds. —2405 C. L. '97. Mandamus lies to compel town clerk to issue a certificate for levy of tax to satisfy judgment against the township.—Courtright v. Brook, Township Clerk, 54 M. 182. Township bonds, if legally issued, are fixed charges against the township and record of vote of township board to raise money to pay such bonds need not show neglect or refusal of voters to vote money for such purpose.—Newaygo Mfg. Co. v. Echtinaw, 81 M. 416. Certain townships being held liable for county bonds issued for their benefit, action on writ of mandamus was suspended to permit assessment in the following year.—People v. Townships of Porter and Calvin, 18 M. 101.

See also 2335 C. L. '97. Further as to township taxes see Upton v. Kennedy, 36 M. 215; Silsbee v. Stockle, 44 M. 561; Peninsula Iron Co. v. Crystal Falls, 60 M. 510; Willams v. Mears, 61 M. 86; Mills v. Township of Richland, 72 M. 100; Harding v. Bader, 75 M. 316.

Supervisor can only assess such taxes as are properly certified to him by township clerk for assessment unless evidenced by other official action and which the law makes it his duty to assess without clerk's certificate.—Sage v. Auditor General, 72 M. 638. Where township clerk's certificate showed a given sum voted for township purposes and warrant and tax roll showed greater sum, held that proof of one certificate raises presumption against the existence of another not shown to have been made.—Case v. Dean, 16 M. 12.

Township has no authority under the provisions of 2268 C. L. '97 to raise money by tax to be expended for fair-ground purposes.—French v. Township of South Arm, 6 Det. Leg. News 902.

Mandamus will lie against township to enforce the assessment of amount to pay county tax, embezzled by township treasurer.—Hart Township v. Oceana Co., 44 M. 417.

SYNOPSIS OF HIGHWAY LAW: 4035-4228 C. L. '97. Limitation of appropriation by highway commissioner for laying out, altering or discontinuing highway without concurrence of the township board $100.—4040. Determination and apportionment—expense of line roads.—4047. Bridges between town-

ships and between township and village or city.—4051-6. Assessment for damages.—4065. Assessment for highway purposes.—4072-85. Collection of highway labor tax.—4087-95, 4171. Allowance for labor previously performed.—4096, 4098. Allowance for voluntary improvement.—4102. Assessment and collection of money tax for highway purposes.—4104-7, 4112. Assessment for emergent improvement.—4120. Removal of encroachments.—4122, Am. Act 244 of 1899. Erection, repair and preservation of bridges.—4129-34, 4138-40. Allowance for planting shade trees.—4164; for watering troughs or fountains.—4166; for use of wagons with tires not less than three inches in width for hauling loads exceeding 800 lbs. in weight.—4226-7. Discretion of commissioner to require 25¢ of highway tax to be paid in money.—4165. Report of overseer to commissioner.—4171, 4178, Am. Act 220 of 1899. No error or omission of duty on the part of overseer shall invalidate highway tax assessed on township roll. —4179. Assessment for purchase of plank or toll road.—4184. Blanks for commissioner and overseers to be furnished by Auditor General.—4191. Assessment for tools.—4192-4. Assessment for highway orders.—4211. Exemption of honorably discharged soldiers and marines from poll tax.—4228.

Assessment of highway and railroad grades.—4249-52 C. L. '97. Township road system.—4287 C. L. '97.

Labor and money tax which electors may vote under 4074 C. L. '97, is only for ordinary improvements for highways and bridges during the year.—Longyear v. Auditor General, 72 M. 415. An act requiring the township to raise $4,000 for bridge is in violation of Sec. 9, Art. X, Constitution.—Township of Ada v. Kent Circuit Judge, 114 M. 77. Township board has no authority to exempt certain property from assessment for highway taxes.—Auditor General v. D. S. S. & A. R. R. Co., 116 M. 122.

A special highway tax exceeding the amount allowed by law and assessed for highway not legally laid out without any showing in the township records that it had been voted is void.—F. & P. M. R. R. Co. v. Auditor General, 41 M. 635. Highway tax where no inhabitants and no actual or contemplated highways held invalid.—Michigan Land Co. v. Township L'Anse, 63 M. 700. Highway tax illegal where no action is properly certified to supervisor as taken by township meeting or town board, and board cannot act except on failure of electors, etc., which should appear on record.—Gamble v. Auditor General, 78 M. 302. Voters cannot be said to have neglected or refused to vote highway tax unless question was submitted, and tax voted by township board without such neglect or refusal is unauthorized.—Auditor General v. D. S. S. & A. R. R. Co., 116 M. 122.

A highway tax is illegal when ordered by the board of supervisors without the certificate of the township clerk that such tax had been imposed by the township and it not appearing that such tax was fixed by the township board or that the electors either voted or failed to determine the amount.—Boyce v. Auditor General, 90 M. 314. See also as to sufficiency of record relative to taxes ordered raised. A special highway tax cannot be levied upon the property of a township to pay the indebtedness of road districts therein.—McFarlan v. Township of Cedar Creek, 93 M. 558.

Further as to highway taxes see Silsbee v. Stockle, 44 M. 561; Alcona Co. v. White, 54 M. 503; Lake Superior C. R. & I. Co. v. Thompson, 56 M. 493; Peninsula Iron Co. v. Crystal Falls, 60 M. 510; Michigan Land Co. v. Township L'Anse, 63 M. 700; Mich. Land Co. v. Republic Township, 65 M. 628; Mills v. Township of Richland, 72 M. 100; Turnbull v. Township of Alpena, 74 M. 621; Newaygo Mfg. Co. v. Echtinaw, 81 M. 416; Hoffman v. Lynburn, 104 M. 494, etc.

DRAIN TAXES: Townships are not agencies to originate proceedings or levy or collect drain taxes, nor do moneys collected belong to township.—Emerson v. Township of Walker, 63 M. 483; Barker v. Vernon, 63 M. 516. See notes to Sec. 37. Duties of township clerk relative to drain taxes.—4356 C. L. '97. But see "Drain Taxes," Sec. 37.

SYNOPSIS OF SCHOOL LAW: 4639-4838 C. L. '97. Inspectors may attach to a school district any person residing in township and not in any organized district at his request; and for all district purposes, except raising tax for building school house, such person shall be considered as residing in such district, but when set off to a new district no sum shall be raised for such person as his proportion to the district property.—4655. Voting tax for school house—limit of tax.—4665. Estimate of school tax.—4674; report to township clerk.—4675. Annual report of taxes assessed.—4677. Purchase of text books.—4681. Purchase of appendages.—4686. Director's report of moneys raised.—4689. Report of school taxes by township clerk to supervisor.—4701. Apportionment of school taxes.—4703. Assessment of school tax—If any taxes provided for by law for school purposes shall fail to be assessed at the proper time the same shall be assessed in the succeeding year.—4704. Assessment and apportionment of one mill tax.—4705. Assessment and application of taxes in divided district.—4706. Taxes in fractional districts.—4707. Statement to township treasurer of school and library tax.—4708. Statement of one mill tax in fractional district.—4709. Collection and apportionment of taxes on division of district.—4710. Apportionment of money due fractional district.—4713. Two-thirds vote required to borrow money—limit of indebtedness.—4717. Amended Act 190 of 1899. Voting tax to redeem bonds.—4719. Supervisor to assess amount of judgment against district—collection.—4727. Collection of judgment for school house site.—4734. Appeal from action of inspectors.—4743 e. s. Graded school districts.—4746-51 Am. Act 238 of 1899. Voting tax for school libraries.—4763. Liability of township clerk and supervisor in regard to district taxes.—4771. Voting tax for text books.—4776. Estimate of amount to be raised.—4778. Publication of proceedings of annual school meeting in graded district.—4800. Purchase of flag.

—4802. Compensation of county commissioner of schools and examiners.—4827. Voting tax in township school district.—4831. Assessment.—4832. Provision as to taxes.—4836. Compensation of members of board.—4837.

Assessment for public libraries in cities—3449, 3458, 3460 C. L. '97.

Section 4711 C. L. '97 providing that township treasurer shall retain full amount of school taxes on roll subject to order of the district officers, is superseded by Sec. 52 of the General Tax Law.—3875 C. L. '97.

See Secs. 37 and 99.

A school district has no power to levy a tax except for purposes specified by statute.—Hinman v. School District, 4 M. 168. School taxes voted by boards before submission are invalid.—Auditor General v. Sparrow, 116 M. 574. Board has no authority to raise money for school purposes unless voters have neglected or refused so to do.—Auditor General v. D. S. S. & A. R. R. Co., 116 M. 122. School taxes not affected by failure of equalization.—Auditor General v. Gurney, 109 M. 472.

4704 C. L. '97 requires the supervisor to assess taxes levied by school districts. He has no discretion in the matter but is bound to spread on his tax roll school taxes properly certified and directed to be levied by the board of supervisors.—Union School District v. Parris, 97 M. 593. Sub. 6, 4665 C. L. '97, which prohibits the taxation of lands for school buildings unless situated within 2½ miles from the schoolhouse site, applies only to primary schools, and in a graded school district all land within the district may be taxed for the erection of the schoolhouse.—Keweenaw Ass'n. v. School District, 98 M. 437. Sec. 4704 C. L. '97, which provides that school taxes not assessed at the proper time shall be assessed the succeeding year, applies where the district board fails to certify the tax to the township clerk in time for certification to the supervisor for assessment.—Wilcox v. Township of Eagle, 81 M. 271. School taxes for a district which includes lands in another county are properly levied upon those lands.—Johnston v. Cathro, 51 M. 80.

Further, as to school taxes, see Stuart v. School District, 30 M. 69; Jones v. Wright, 34 M. 371; Burns v. Bender, 36 M. 195; Midland School Districts, 40 M. 551; Stockle v. Silsbee, 41 M. 615; Bryant v. Moore, 50 M. 225; Johnston v. Cathro, 51 M. 80; Port Huron Board of Education v. Treasurer, 57 M. 47; Moiles v. Watson, 60 M. 415; Burroughs v. Goff, 64 M. 464; Wilcox v. Township of Eagle, 81 M. 271; Keweenaw Ass'n. v. School District, 98 M. 437; Sheldon v. Marion, 101 M. 256; Auditor General v. D. S. S. & A. R. R. Co., 116 M. 122.

LOCAL IMPROVEMENTS: The whole theory of a legal assessment for local improvements depends upon a uniform rule of charges within some defined district and resting upon some principle which is intelligible.—Clay v. Grand Rapids, 60 M. 451. A special assessment which discriminates between the property of persons taxed cannot be sustained.—White v. Saginaw, 67 M. 33. Every valid assessment must be based upon some legally ordained basis of apportionment and not arbitrarily.—Detroit v. Daly, 68 M. 502. Charter authority to make local assessments must be strictly followed, and when the mode is prescribed by the charter or by ordinances adopted under its authority the measure of power is limited thereby.—Whitney v. Village of Hudson, 69 M. 189.

Where charter requires board of assessors to enter upon special assessment roll the valuation of each parcel within the district, as shown by the last preceding general assessment roll, the valuation of a parcel lying partly within and partly without the district may be apportioned where it was assessed as one tract upon the general roll.—Boehme v. Monroe, 106 M. 401.

Terminal property of a railroad company cannot be sold under provisions of special charter for non-payment of assessment for local improvements.—L. S. & M. S. R. R. v. Grand Rapids, 102 M. 374. Property of railroad company necessary to enjoyment of its franchise, such as portion of road bed, cannot be sold under proceedings to collect assessment levied thereon for municipal improvements.—D. G. H. & M. R. R. Co. v. Grand Rapids, 106 M. 13. A railroad company is not liable to assessment for paving a street because its track is located therein and abuts upon a section of the street so improved, although the assessment is made according to frontage.—Boehme v. Monroe, 106 M. 401.

Payment of specific taxes "in lieu of all other taxes" does not exempt from assessment for local improvements.—L. S. & M. S. R. R. Co. v. Grand Rapids, 102 M. 374. But a section of railroad right-of-way occupied by tracks and used for no other purpose, cannot be assessed for improving a street which crosses it under city charter requiring such assessment to be according to benefits.—D. G. H. & M. R. R. Co. v. Grand Rapids, 106 M. 13. Further, as to assessment for, see Woodbridge v. City of Detroit, 8 M. 274; Jackson v. Detroit, 10 M. 248; Goodrich v. Detroit, 12 M. 279; Hobart v. Detroit, 17 M. 246; Scofield v. Lansing, 17 M. 437; Motz v. Detroit, 18 M. 495; Hoyt v. Saginaw, 19 M. 39; Steckert v. East Saginaw, 22 M. 104; Lansing v. Van Gorder, 24 M. 456; Powers' Appeal, 29 M. 504; Warren v. Grand Haven, 30 M. 24; Jones v. Water Commissioners, 34 M. 273; Thomas v. Gain, 35 M. 155; Butler v. Detroit, 43 M. 552; Sheley v. Detroit, 45 M. 431; Cumings v. Grand Rapids, 46 M. 150; Rentz v. Detroit, 48 M. 544; Beidler Mfg. Co. v. Muskegon, 63 M. 44; Adams v. Bay City, 78 M. 211; Manistee v. Harley, 79 M. 238; Thayer v. Grand Rapids, 82 M. 298; Auditor General v. Fisher, 84 M. 128; Ely v. Grand Rapids, 84 M. 336; Sligh v. Grand Rapids, 84 M. 497; Davies v. Saginaw, 87 M. 439; Whitney v. Port Huron, 88 M. 268; Townsend v. Manistee, 88 M. 408; Hembling v. Big Rapids, 89 M. 1; Beecher v. Detroit, 92 M. 268; School Furniture Co. v. Grand Rapids, 92 M. 564; Lundbom v. Manistee, 93 M. 170; Auditor General v. Maier, 95 M. 127; Powers v. Grand Rapids, 98 M. 393; Big Rapids v. Supervisors, 99 M.

351; Trowbridge v. Detroit, 99 M. 443; Lumber Co. v. East Jordan, 100 M. 201; Borgman v. Detroit, 102 M. 261; L. S. & M. S. R. R. Co. v. Grand Rapids, 102 M. 374; Goodwillie v. Detroit, 103 M. 283; Moore v. Detroit, 103 M. 292; Turner v. Detroit, 104 M. 326; Shimmons v. Saginaw, 104 M. 511; Harper v. Grand Rapids, 105 M. 551; Duffy v. Saginaw, 106 M. 335; Boehme v. Monroe, 106 M. 401; Scotten v. Detroit, 106 M. 564; Nelson v. Saginaw, 106 M. 659; Brown v. Saginaw, 107 M. 643; Atwell v. Barnes, 109 M. 10; Balch v. Detroit, 109 M. 253; Fitzhugh v. Bay City, 109 M. 581; Bandistel v. Jackson, 110 M. 357; Detroit v. Judge Recorder's Court, 112 M. 588; Thompson v. Detroit, 114 M. 502; Kalamazoo v. Francoise, 115 M. 554; Bogert v. Jackson Circuit Judge, 118 M. 457; Walker v. Ann Arbor, 118 M. 251; Scribner v. Goodrich v. Detroit, 7 Det. Leg. News 11; Goodrich v. Detroit, 7 Det. Leg. News 11.
See Sec. 99.

Supervisors to apportion taxes among townships.

SEC. 37. (3860) The board of supervisors, at their annual session in October in each year, shall ascertain and determine the amount of money to be raised for county purposes, and shall apportion such amount, and also the amount of the State tax and indebtedness of the county to the State among the several townships in the county in proportion to the valuation of the taxable property therein, real and personal, as determined by them for that year, which determination and apportionment shall be entered at large on their records. They shall also examine all certificates, statements, papers and records submitted to them, showing the moneys to be raised in the several townships for school, highway, drain, township and other purposes. They shall hear and duly consider all objections made to raising any such moneys by any taxpayer to be affected thereby. If it shall appear to the board that any certificate, statement, paper or record is not properly certified, or that the same is in anywise defective, or that any proceeding to authorize the raising of any such moneys has not been had, or is in anywise imperfect, and such certificate, statement, paper, record or proceeding can then be corrected, supplied or had, such board may authorize and require such defects or omissions or proceedings to be corrected, supplied or had. They may refer any or all such certificates, statements, papers, records and proceedings to the prosecuting attorney, whose duty it shall be to examine the same and, without delay, report in writing his opinion to the board. They shall direct that such of the several amounts of money proposed to be raised for township, school, highway, drain and all other purposes, as shall be authorized by law, be spread upon the assessment roll of the proper townships, wards and cities. Such action and direction shall be entered in full upon the records of the proceedings of the board, and shall be deemed final as to the levy and assessment of all such taxes.

To examine requirements of townships.

To hear objections.

Correction of records, etc.

Duties of prosecuting attorney.

Township, etc., taxes.

Record of action.

Annual session second Monday in October; county clerk to publish notice three weeks.—2475 C. L. '97. Annual session in October embraces all adjournments.—Hubbard v. Winsor, 15 M. 146. Clerk to record all proceedings.—2477 C. L. '97. Final passage requires majority of all members elect.—2476 C. L. '97.

COUNTY TAXES INCLUDES: Not exceeding $1,000 to build or repair roads or bridges, by two-thirds vote of board of supervisors.—Sec. 9, Art. X, Const.; 2484 C. L. '97, Sub. 15. Laying out highways and constructing bridges.—Sec. 11, Art. X, Const. Erecting and repairing county bridges.—2441 C. L. '97, and State and territorial roads.—2498, 2501 C. L. '97. Burial lots for soldiers.—1697 C. L. '97. Burial of soldiers.—Act 242 of 1899. Soldiers' monuments.—1700-2 C. L. '97. Courthouse.—2454 C. L. '97. Judgments.—2471 C. L. '97. Repair of public buildings.—2480-1 C. L. '97. Publication of proceedings.—2482 C. L. '97. Purchase of real estate necessary for poor-farm and public buildings; re-

moval of county buildings within limit of county seat; erection of necessary public buildings, but may not borrow or raise by tax more than $1,000 in any year for constructing or repairing public buildings, highways or bridges unless authorized by majority vote of electors; payment of loan made by board within 15 years from date of loan; compensation for services rendered for and claims allowed against county; current expenses and necessary charges incident to or arising from the execution of lawful authority of board of supervisors within limitation prescribed by law.—2484 C. L. '97; but the power to fix and determine the site of any building, to remove site of county buildings within limits of county seat, to erect buildings, to abolish or revive distinction between township and county poor, to make regulations for destruction of wild beasts and obnoxious weeds, to authorize townships by vote of electors to borrow or raise money by tax in excess of $1,000 for roads and bridges, to determine the relative proportion of the expense of roads and bridges between townships and to transact business of the county in cases where no other provision is made, requires two-thirds of all the members of the board.—2485 C. L. '97.

Transportation and distribution of public documents.—Sec. 32, Act 44 of 1899. Compensation of members of boards of supervisors.—2503 C. L. '97; and board of auditors, Wayne county.—2526 C. L. '97. Salary of stenographers. —374 e. s. C. L. '97. Salary of county officers.—2649 C. L. '97; in Wayne.—2526 C. L. '97. Compensation of county treasurer.—2542 C. L. '97; of prosecuting attorney.—2562, 2564 C. L. '97; of county clerk.—2576 C. L. '97. Salary of probate judges.—2551-2 C. L. '97; of probate register.—2554 C. L. '97. Expenses of probate courts.—683-7, 690 C. L. '97. Salary of sheriffs, U. P., 2598-9 C. L. '97. Insurance of county buildings.—2543 C. L. '97. Assistance in criminal cases.—2569 C. L. '97. Jail, etc., charges.—2653 C. L. '97. Damages and compensation awarded in condemnation of plank or toll road.—2516 C. L. '97. Books for clerk's office and clerk's calendar.—2574 C. L. '97; for register of deeds.—2615 C. L. '97; and surveyors.—2622 C. L. '97. County clerk's books for soldiers' discharges, and fees for recording.—1704 e. s. C. L. '97. Seal for register of deeds.—2616 C. L. '97. Plats and field notes of survey of lands in county.—2624 C. L. '97. Enrollment of militia.—1576 C. L. '97. Weights and measures. —4884 C. L. '97. Support of defectives.—4513 C. L. '97; and paupers.—4539 C. L. '97. Infectious diseases.—4424 C. L. '97. Soldiers' relief fund.—Act 214 of 1899. Restoring plats.—3289 C. L. '97. Building poor house.—4508 C. L. '97. Support of county poor.—4527 C. L. '97. Payment of judgment for damages by mob.—Act 252 of 1899.

Fish shutes in certain counties.—Acts 116 of 1893 and 118 of 1895. Indebtedness to State, tax or bonds for.—2487 C. L. '97. Expenses of establishing lines and corners, to be assessed upon lands benefited.—2627 C. L. '97. Expenses of mine inspection, to be assessed in separate column.—5494 C. L. '97. Removal of county seat.—Sec. 8, Art. X, Const. Vote of county for loan or tax for removal of county seat.—2493 C. L. '97. Wayne board of auditors shall report to supervisors amount of tax necessary to be raised for county purposes.—2532 C. L. '97. County road system.—4262 e. s. C. L. '97.

Power of board of supervisors to fix compensation or adjust claims.—See Sec. 10, Art. X, Const.

Failure of board of supervisors to examine certificates, etc., is an irregularity at most, and in the absence of an affirmative showing of defects in taxes or that defendant taxpayer has been denied a hearing the validity of the taxes will be presumed.—Auditor General v. Hill, 98 M. 326.

Determination of board of supervisors must be recorded in the records of the board and must be signed by the chairman and the clerk.—2502 C. L. '97. Neglect or refusal of members of the board to perform any duty required by law.—2504 C. L. '97.

Apportionment of indebtedness of vacated villages if in two or more townships.—2954 C. L. '97.

"To raise money by tax or loan" does not warrant resort to both methods at one time to raise an amount which both together would produce.—Loomis v. Rogers Township, 53 M. 135.

Board of supervisors has no power under Subs. 7 and 10, Sec. 2484 C. L. '97, to borrow the money necessary to defray the current expenses and charges of the county, but the same must be raised by taxation.—Supervisors v. Warren, 98 M. 144.

Mandamus refused to compel provision to be made by taxation to pay warrants issued by board of supervisors for county building purposes in excess of statutory limits when not submitted to vote.—Pack v. Supervisors of Presque Isle, 36 M. 377; see also Callam v. Saginaw, 50 M. 7. As to manner of submitting vote see Thomas v. Kent Circuit Judge, 116 M. 106.

Mandamus granted to compel supervisors to spread upon roll sum lost by State in consequence of failure of county treasurer to account for moneys received at tax sale conducted by him.—Attorney General v. Supervisors St. Clair Co., 30 M. 388.

It is competent for the board of supervisors to raise money for building bridges, also for the destruction of Canada thistles and other noxious weeds, the destruction of which is provided for by law; and this may be regarded as a highway tax.—Tweed v. Metcalf, 4 M. 579.

The power of taxation implies apportionment and when that power has been exercised courts will not declare it void unless a flagrant invasion of private rights is clearly demonstrated.—School Furniture Co. v. Grand Rapids, 92 M. 564. Board not required to determine the amount of State tax to be raised, but simply to apportion the State tax, reference being had to the Auditor General's certificate.—Hoffman v. Lynburn, 104 M. 494. State and county taxes are wholly distinct in their object, destination and amount

from the other taxes; they stand upon their own necessity and have no such natural or legal connection with the others as to be necessarily involved in the same fate.—Pillsbury v. Auditor General, 26 M. 245.

Board having fixed the amount to be raised at a percentage on the assessed valuation, Held valid, being just as certain as though calculated.—Hubbard v. Winsor, 15 M. 145. But if amounts are definitely fixed by calculation no question can be raised.

The requirements that the board of supervisors shall ascertain and determine the amount to be raised, etc., and apportion among townships, etc., and that their action shall be entered in full upon the records, are mandatory.—Boyce v. Sebring, 66 M. 210. As to action of board and record thereof see Boyce v. Auditor General, 90 M. 314.

Boards of supervisors have no general power to establish claims in favor of the counties against townships.—People v. Wright, 19 M. 351.

In Fay v. Wood, 65 M. 390, objection being made to the assessment roll for want of statutory certificates, and it being claimed that the appearance of the roll showed that one or more leaves had been detached, it was held that a question of fact was presented whether the roll was properly certified when delivered to the supervisor.

The board of supervisors does not originate township or school taxes.—Robbins v. Barron, 33 M. 124.

COUNTY ROAD SYSTEM: 4262-86 C. L. '97. In counties which have voted to adopt the county road system provided for by Act 149 of 1893, the board of supervisors are required to apportion such tax for county roads as shall be certified to them under the provisions of Sec. 20 of said act, and assessors must put such tax in a separate column on the roll, to be headed "County Road Tax."—4281 C. L. '97.

AGRICULTURAL SOCIETIES: Assessment for.—5947 C. L. '97. Assessment void if tax was ordered without receiving sworn certificate showing statutory amount raised by the society.—Hall v. Kellogg, 16 M. 135; Hogelskamp v. Weeks, 37 M. 422. But county tax will not be invalidated unless it is conclusively shown that amount therefor was included therein.—Boyce v. Auditor General, 90 M. 314. As to presumption that certificate was present.—Silsbee v. Stockle, 44 M. 561. As to manner of apportionment.—Harding v. Bader, 75 M. 316.

HIGHWAY TAXES: The board of supervisors has no power to raise money in a county tax to be expended generally upon highways.—Sage v. Auditor General, 72 M. 638. Highways and roads are by the constitution put under the control of the board of supervisors, not arbitrarily, but under legal restrictions, and those restrictions have confined them to State and territorial roads; and they can have no occasion to raise money for other roads, and they must exercise their own judgment in expending such moneys as they may lawfully raise. A resolution of a board of supervisors providing for raising money to be paid over to towns without any definition of purposes and to be spent under direction of a town officer is held to be unauthorized and void.—Attorney General v. Bay Co. Supervisors, 34 M. 46. A tax voted by the board of supervisors to be included in the county tax to be distributed among and expended by the several supervisors for highway purposes is illegal.—Gamble v. Auditor General, 78 M. 302.

SYNOPSIS OF DRAIN LAW: 4308-96 C. L. '97. Where benefits and assessments for drain laid in one county extend to lands in adjoining county, commissioners of counties affected shall act jointly.—4312. Where drain runs through city appeal from assessment to be to common council.—4313. No drain tax spread until all records have been filed with county clerk.—4314. Petition for drain.—4319, Am. Act 272 of 1899. Award of damages to be deducted from assessment of benefits.—4331. Order of determination shall include description of lands to be assessed for benefits, said lands to constitute special assessment district. Notice of letting to be served on resident owners and to contain description of lands. Review of assessment.—4340, Am. Act 272 of 1899. Determination of period of collection.—4341 Parties assessed to be preferred in awarding contract.—4342; Am. Act 272 of 1899. Commissioner to apportion per cent of benefits to township and to lands benefited, subject to review.—4344; Am. Act 272 of 1899. Appeal to probate court.—4345, Am. Act 272 of 1899. Appointment of board of review—review of assessment—review upon certiorari.—4346, Am. Act 272 of 1899. Who may not act upon appeal.—4347. Review—lands added to district—notice to nonresident owner—decision of board of review final.—4348, Am. Act 272 of 1899. Costs.—4349, Am. Act 272 of 1899. Assessment to be for benefits—description of lands.—4350. Assessment and collection on part-paid and state lands—report of assessment upon state lands to be made by supervisor to Commissioner of State Land Office and amount to be paid by Auditor General on certificate of Commissioner.—4351; but the sum of all drain taxes that may be assessed against any state lands, including all drain taxes heretofore paid by the state, shall not aggregate a sum greater than 50 per cent of the price at which said lands are held by the state. Additional assessment not subject to review or appeal.—4352. Adjournment of review—appeal by township.—4353, Am. Act 272 of 1899. Computation for assessment.—4354, Am. Act 272 of 1899. Commissioner to make special assessment roll for each township and city affected and shall certify thereon his determination as to time of payment—rolls to be filed in office of township or city clerk before last Wednesday in September.—4355, Am. Act 272 of 1899. Clerk to certify to supervisors amount to be assessed—supervisors to lay statement before board of supervisors at next annual meeting.—4356. Supervisor to spread assessment when so directed by board.—4357. Supervisor to give township treasurer a statement of the amounts assessed at large in the township and endorse

upon special assessment roll in clerk's office the amount of benefits spread on his tax roll.—4358. Collection of drain taxes under provisions of general tax law—taxes a lien upon land.—4359. (Provision of same section that tax shall be a personal claim against owners is deemed to be invalid. See notes to section in Compiled Laws of 1897.) Lands to be returned for delinquent tax as for other taxes.—4360. Drain taxes collected to be accounted for to county treasurer—may be paid to township or county treasurer with drain orders on same drain.—4362. Collection not to be enjoined.—4363-4. Proceedings for collection.—4365. Relaying or completion of drain—reassessment of benefits—allowance upon reassessment for sums paid—provisions apply to drains laid under prior laws.—4366, Am. Act 272 of 1899. Drain taxes charged back and reassessed.—4367. Suit for drain taxes.—4368-70. Drain tax subject to be set aside for error in description or other defects in roll to be reported by commissioner to board of supervisors at October session, who shall order reassessment upon proper description. Such report may be made at any time before the sale of the land for such tax.—4369, C. L. '97. (Whenever this is done after the lands are returned by township treasurer a report of the action taken should be at once certified to the Auditor General by county clerk.) Drains traversing more than one county—appointment of special commissioners— assessment apportioned to counties and certified to clerks—assessment and collection as hereinbefore provided—assessment for cleaning, straightening, deepening, widening or extending drains—provisions for assessment and collection same as for other drain taxes.—4370-80.

County drain commissioner shall be a party in any action to set aside drain tax.—Act 141 of 1899.

The report of a committee appointed to tabulate the report of the township clerk to the county clerk of moneys voted to be raised in the several townships, is not sufficient to legalize a drain tax spread upon the assessment roll without direction of the board of supervisors. In this respect drain taxes appear to be on a different footing from other taxes.—Post v. Harris, 95 M. 321.

A warrant for the collection of drain taxes is fatally defective if the taxes are not so spread on the assessment roll as to identify the several drains and the levy for each.—Dunning v. Calkins, 51 M. 586.

Further as to drain taxes see Butler v. Supervisors of Saginaw Co., 26 M. 22; Harbaugh v. Martin, 30 M. 234; Dawson v. Township of Aurelius, 49 M. 479; Brownell v. Gratiot Supervisors, 49 M. 414; Clark v. Drain Commissioner, 50 M. 618; Wallace v. Sortor, 52 M. 159; Whiteford v. Probate Judge, 53 M. 130; Bixby v. Goss, 54 M. 551; Frost v. Leatherman, 55 M. 33; Emerson v. Township of Walker, 63 M. 483; Barker v. Township of Vernon, 63 M. 516; Alger v. Slaght, 64 M. 589; Lindsay v. Eastwood, 72 M. 336; Taylor v. Township of Avon, 72 M. 604; Cook v. Auditor General, 79 M. 100 (on part paid); Mason v. New Haven Township, 82 M. 435; Conley v. St. Clair Supervisors, 88 M. 245; Nugent v. Erb, 90 M. 278; Tinsman v. Monroe Supervisors, 90 M. 382; Tile Company v. Snyder, 93 M. 325; Bump v. Jepson, 106 M. 641; Laubach v. O'Meara, 107 M. 29; Atwell v. Barnes, 109 M. 10; Angell v. Courtright, 111 M. 223; Hilton v. Dumphy, 113 M. 241; Smith v. Carlow, 114 M. 67; Brady v. Hayward, 114 M. 326; Kiley v. Bond, 114 M. 447; Hillyer v. Jonesfield, 114 M. 644; Roberts v. Smith, 115 M. 5; Smith v. Board of Supervisors, 115 M. 202; Thomas v. Walker Township Board, 116 M. 597; Houser v. Burbank, 117 M. 463; Lanning v. Palmer, 117 M. 529; Post v. Harris, 95 M. 321; Zink v. Supervisors, Mich. Mandamus Cases 1337; Henderson v. Darling, Mich. Mand. Cases 1339; Snyder v. Supervisors, Mich. Mand. Cases 1340; Auketell v. Hayward, 5 Det. Leg. News 902; Jenny v. Township of Mussey, 6 Det. Leg. News 433, etc.

See Sec. 99.

County clerk to make certificates of apportionment.

SEC. 38. (3861) The clerk of the board of supervisors shall, immediately after the said apportionment, make out two certificates showing the amounts apportioned to each township for State, county and the various township purposes, each tax being kept distinct, one of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township: *Provided*, That if said clerk fail to make such certificate, the supervisor shall take official notice of all certificates, statements, papers and records in the office of the township and county clerk relating to the levy of taxes in his township, and of the action of the board of supervisors thereon.

Proviso.

Supervisor can only assess such taxes as are properly certified to him unless evidenced by other official action and which the law makes it his duty to assess without clerk's certificate.—Sage v. Auditor General, 72 M. 638. Mandamus will not be granted to compel a supervisor to spread upon his roll that portion of the county tax certified to him which, while purporting to have been voted for the purchase of a poor farm, is really to aid in securing a location for a tannery.—Cheboygan Supervisors v. Township of Mentor, 94 M. 386.

See Secs. 36, 37, 99.

TAXES—HOW TO BE ASSESSED.

SEC. 39. (3862) The supervisor of each township or ward, and the assessing officer of each city or village, as provided by law, shall proceed to assess the taxes apportioned to his township, or assessment district, according and in proportion to the valuations entered by the board of review in the assessment roll of the township, ward, village or city of the year: *Provided*, That if the board of review make no such entry, then on the valuation therein as entered by the supervisor or assessor. For the purpose of avoiding fractions in computation, the assessor may add to the amount of the several taxes to be raised not more than one per cent; said excess shall belong to the contingent fund of the township; such taxes shall be entered in separate columns, as follows: All school taxes and the one mill tax in one column, highway taxes in another, township taxes in another, county taxes in another, and the State taxes in another column; and if other taxes are at any time required to be raised, they shall be placed in separate columns. The total of all the taxes assessed against any one valuation or parcel of property shall be added and carried out in the last column upon the right hand side of such roll.

Assessment, how made.

Proviso.

Several taxes entered separately.

Total to be extended.

The several taxes assessed must be clearly defined at the head of the several columns in which they are entered. It is not sufficient that this designation be such that the assessor understands what the tax is; it must be so written at the head of the column that any other person may understand what the tax is for. In Tillotson v. Webber, 96 M. 144, it was held that where an amount charged against a description as "township tax" can be accounted for only by assuming that the general highway tax is included, it is a violation of the law and renders a tax deed for such a tax invalid.

Approval of board of supervisors of assessment to pay judgment against city not necessary, and failure of clerk to certify to board of supervisors cannot defeat assessment, which should be apportioned as are other taxes.—Shippy v. Mason, 90 M. 45.

Supervisor cannot levy tax at his discretion.—Lacey v. Davis, 4 M. 157. The failure of the supervisor to extend the taxes upon a corrected assessment roll received from the board of supervisors after equalization was held in Seymour v. Peters, 67 M. 415, to be fatal to the validity of the taxes. For later cases see Sec. 59.

Assessor cannot alter or amend the rolls as certified by the board of supervisors in any particular.—Clark v. Axford, 5 Mich. 190. Supervisor is not liable for refusing to make an assessment to pay a judgment which was a nullity. —Brewer v. Palmer, 13 M. 104. In Wayne County Savings Bank v. Supervisor, Mich. Mandamus Cases 1348, mandamus issued to compel assessment to pay township bonds. Mandamus having been granted to compel supervisor to assess taxes to pay bonds due, second writ will not be granted to compel an assessment for the uncollected portion until the sale of the lands for delinquent taxes upon which said assessment was made.—Wayne County Savings Bank v. Supervisor, 97 M. 639. In Attorney General v. Finney, Mich. Mandamus Cases 1318, mandamus was granted to compel supervisor to assess State and county taxes as apportioned, he having refused to act on the ground that the equalization was inequitable.

A tax is invalid if it appears only upon a roll to which it does not belong and is omitted from a roll to which the law authorizing it expressly assigned it.—Folkerts v. Powers, 42 M. 283. Repair of fences to be assessed in separate column.—2418 C. L. '97. Assessment of judgment against township, village or city in certain cases.—10182-3 C. L. '97. Assessment to pay indebtedness of vacated village.—2953 C. L. '97. Assessment for public improvements under Act 124 of 1883.—3406 C. L. '97. Provision that taxes be in separate column is mandatory.—Cooley on Taxation 428. The statute requiring the one mill tax to be stated in the column of school taxes is not merely directory, but mandatory.—Case v. Dean, 16 M. 12. The one mill tax should be determined by assessed valuation and not by equalized valuation.—Township of Deerfield v. Harper, 115 M. 678.

In the computation and extension of the taxes the greatest care should be observed. The computation and entry in the assessment roll of the amount to be levied on each parcel of property is a judicial duty of assessors which cannot be delegated to third persons to be performed out of the presence of the assessors or without their supervision.—Black on Tax Titles 120.

Any increase or diminution made by the supervisors in the equalization must be shared alike by both realty and personalty, and a tax is void if the

entire increase is distributed upon the realty, the tax on the land being excessive.—Sinclair v. Learned, 51 M. 335. It is not competent to put one rate upon real estate, another rate upon personal property generally, and still another rate upon certain kinds of corporate stock.—Black on Tax Titles 28. Where a sum of money has been lawfully voted to be raised by taxation for township purposes, the failure of the board of supervisors to direct its levy would not invalidate the action of the supervisors in spreading it upon the rolls.—Upton v. Kennedy, 36 M. 215.

There must be no more levied in the aggregate for any given tax than is authorized, and the proportion charged against each parcel of land or to each person to whom property is assessed, must be no more than such person or property can properly be charged with.—Assessor's Manual 71. The reason for holding a tax sale void when the levy is excessive is that the sale is for the aggregate of all the taxes, so that the tax title is based as much on what is illegal as upon what is lawful.—Silsbee v. Stockle, 44 M. 561. Excessive tax levies are held to invalidate a tax deed because they are unauthorized and that the officer has no jurisdiction to make them; and where such a levy is made upon taxable property contained in the whole roll the entire roll is invalidated, as where an excess of $3.01 of two mill tax was levied upon the property of the township.—Boyce v. Sebring, 66 M. 210.

Any material excess in the State, county or township tax and which are all blended in one column, will render the taxes in such column void.—Case v. Dean, 16 M. 12. Practically any excess is held to be material. An excess of $25.00 in a township tax legally assessed invalidates the sale of land upon which any part of the excess was levied.—Rogers v. White, 68 M. 10. An excess of 45 cts. in highway tax on a parcel of land renders the tax deed therefor void.—Seymour v. Peters, 67 M. 415. An excess of seven or eight cents respectively, against two parcels of land was held to render the tax deed therefor invalid so far as it was based upon the tax for the year in which such excess appears.—Tillotson v. Webber, 96 M. 144. Sale is void where the tax is shown to be "five or six cents" in excess of the amount authorized by law.—Burroughs v. Goff, 64 M. 464. An excess of highway tax over the statutory limit is sufficient to defeat a sale made for an aggregate of taxes of which it forms a part.—Silsbee v. Stockle, 44 M. 561. Where a school district record showed $180.00 voted by electors and no record of increase by the district board and $240.00 was levied by the supervisor, it was held that a tax title based thereon was void.

The foregoing as to the effect of excessive assessment relates in many cases to the invalidating of sales or tax deeds. Under the present law owners have opportunity to have this excess eliminated by the court on the hearing upon petition for decree and cannot be heard to complain in this particular after decree is entered; but it is none the less important that the excesses should be studiously avoided and so prevent the necessity of and the loss incident to a contest over the taxes.

HIGHWAY TAXES: A highway tax is illegal if the manner of levy and collection prescribed by the statutes is not followed.—Ryerson v. Laketon, 52 M. 509. Under 4171 and 4178 C. L. '97, a verified return of delinquent labor taxes by the overseer of highways is essential to confer jurisdiction upon the supervisor to spread the tax upon the township assessment roll.—Hamilton & Merryman Co. v. Township L'Anse, 107 M. 419. A tax deed was held void where the taxes for which sale was made included highway taxes and the overseer of highways had not sworn to the returns of highway labor which he had made to the supervisor.—Hogelskamp v. Weeks, 37 M. 422. A township tax levy for highways is properly added to the other highway taxes on the assessment roll and not to the township tax.—Silsbee v. Stockle, 44 M. 561. A highway money tax when voted must be laid upon all property in the township, including that in incorporated villages.—Ryerson v. Laketon, 52 M. 509. Highway taxes are not necessarily illegal because for roads in contemplation but not laid out.—Sawyer-Goodman Co. v. Crystal Falls, 56 M. 597.

DRAIN TAXES: A warrant for the collection of drain taxes is fatally defective if the taxes are not so spread on the assessment roll as to identify the several drains and the levy for each.—Dunning v. Calkins, 51 M. 556. Drain taxes are separate funds not to be confounded with other or similar assessments.—Wallace v. Sortor, 52 M. 159. Drain taxes assessed at large to be included in column with general township or city tax; those laid upon lands benefited to be spread in separate column headed with name of drain and opposite descriptions separately written and following descriptions assessed for other taxes on said rolls.—4357 C. L. '97. Supervisor's action in assessing drain tax is merely ministerial; he has no authority to change assessments.—Lindsay v. Eastwood, 72 M. 336. Supervisor and township clerk cannot refuse to certify, etc., as to drain taxes, because, in their opinion, the assessments would be invalid because of irregularity in the proceedings.—Laubach v. O'Meara, 107 M. 29. But in Nugent v. Erb, 90 M. 278, the court exercised its discretion and refused mandamus to require supervisor to assess a drain tax where it appeared that no legal drain could be laid out.

Where the board of supervisors in the exercise of their lawful authority have ordered an assessment for the construction of a drain to be spread upon the rolls, a supervisor should not refuse to spread the tax because, in his opinion, the proceedings were irregular, and where he refuses to perform his official duty mandamus will issue to compel him to act.—Scholtz v. Smith, 6 Det. Leg. News 7.

Taxes and charges a lien on Dec. 1.

SEC. 40. (3863) The taxes thus assessed shall become at once a debt to the township, ward or city from the persons to

whom they are assessed, and the amounts assessed on any interest in real property shall, on the first day in December, become a lien upon such real property, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof. And all personal taxes shall also be a lien on all personal property of such persons so assessed from and after the first day of December in each year, and shall take precedence of any sale, assignment or chattel mortgage, levy or other lien, on such personal property, executed or made after said first day of December, except where such property is actually sold in the regular course of trade.

Precedence of tax lien.

Township can, in suit by its supervisor, collect a personal tax due which the treasurer has failed to collect. The right of action conferred by this section is independent of that derived from Sections 55 and 56, providing for the collection of such delinquent taxes by the treasurer of the township upon warrant issued by county treasurer.—Bangor v. Smith Transportation Co., 112 M. 601. Supervisor to prosecute in name of people, etc.—2331 C. L. '97. A municipality may institute suit to enforce the payment of taxes which are made a debt to the city by statute, and which the treasurer has failed to collect; and recovery may be had against the owner of the property for valid tax, notwithstanding a mistake was made in the name of the person to whom it was assessed.—City of Menominee v. S. K. Martin Lumber Co., 5 Det. Leg. News 771.

In action for taxes assessed against personal property it is not necessary to show diligence upon the part of township treasurer if it appears that taxes were not collected.—Township of Deerfield v. Harper, 115 M. 678. See further for rulings in suits for taxes.

Taxes not a charge upon person or land prior to December, when for the first time the opportunity is offered or the duty arises to pay them.—Harrington v. Hilliard, 27 M. 271. Drain taxes a lien as soon as benefits are apportioned.—Lindsay v. Eastwood, 72 M. 336. A lien for city taxes in cities governed by special charter is fixed by such charter.—Eaton v. Chesebrough, 82 M. 214. Lien for taxes assessed in cities governed by Act 215 of 1895 is as provided in this section. Whether lien for village (corporation) taxes assessed under Act 3 of 1895 attaches when lands are returned to county treasurer after the expiry of warrant—2869 C. L. '97— or not until December 1st. quere.

In construing timber contract containing provision as to payment of taxes assessed; Held, that the mere listing of lands for purpose of taxation is not a completed assessment and that notice of release after listing in April and before the October meeting of the board of supervisors and the ascertainment of the amount to be assessed relieved vendee from payment of taxes thereafter assessed for said year upon said lands.—Rothchild v. Begole, 105 M. 388.

Purchasers at a void tax sale acquire no lien for amount paid for deed or for subsequent taxes in the absence of a statute transferring the State's lien.—Croskery v. Busch, 116 M. 286. Where land sold under claim of good title free from all incumbrances was burdened with tax lien, buyer can recover difference between value of premises with such a title and their worth with the title he received.—Stockham v. Cheney, 62 M. 10.

Purchaser of bank stock prior to December 1 takes it free from any lien for taxes.—St. Johns National Bank v. Township of Bingham, 113 M. 203.

Chattel mortgage does not transfer the legal title to the mortgagee, but affords a security merely.—Wineman v. Electrical Mfg. Co., 118 M. 636.

Assessor to foot roll.

SEC. 41. (3864) Am. Act 262 of 1899. Before the supervisor or assessing officer shall deliver such roll to the township treasurer or city collector he shall carefully foot the several columns of valuation and taxes, and make a detailed statement thereof, which he shall give the clerk of his township or city, and said clerk shall immediately charge the amount of taxes to the township treasurer or city collector. The clerk of each city and incorporated village shall report to the clerk of their respective counties all taxes levied in their respective cities or villages, and not included in the general tax levy, on or before the first day of October in each year. The county clerk shall, within thirty days after the close of the annual session of the board of supervisors in October in each year, forward to the Auditor General, to be filed in his office, a state-

Duties of township clerk.

City and village clerks to report municipal taxes.

County clerk to report to Auditor General.

ment showing the aggregate valuation of all property as assessed in each assessing precinct within the county during the current year. He shall include in such statement a detail of all taxes to be raised in the county for such year; also the amount of taxes not included in the general tax levy, reported to him by the several city and village clerks as above provided.

Township is not estopped by settlement of township board with treasurer from recovering any balance in his hands and not included in such settlement; as when an excess has been levied and collected and treasurer had only been charged with amount stated in supervisor's warrant.—Boardman v. Flagg, 70 M. 372.

THE TAX ROLL.

Supervisor to annex warrant to tax roll.

SEC. 42. Am. Act 261 of 1897. (3865) The supervisor shall thereupon prepare a copy of the said assessment roll, with the taxes assessed as hereinbefore provided, and annex thereto a warrant signed by him, commanding the township or city treasurer to collect the several sums mentioned in the last column of such roll and to retain in his hands the amount receivable by law into the township treasury for the purposes therein specified, and to pay over to the county treasurer the amounts which shall have been collected for State and county purposes up to and including the tenth day of January next following, within three days thereafter, and the remainder of the amounts therein specified for said purposes, and account in full for all moneys received on or before the first day of March next following; and the said warrant shall authorize and command the treasurer, in case any person named in the assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such person. The supervisor may make a new roll and warrant in case of the loss of the one originally given to the township treasurer; the copy of the roll with the warrant annexed, shall be known as "The tax roll."

Township treasurer to pay over State and county taxes.

Distress and sale.

Lost roll.

Tax roll.

When roll has come to assessor from board of supervisors properly certified he has no right unless from defect which renders the whole roll void to refuse to make out the tax roll and attach his warrant thereto. He is required to issue warrant in general form, and cannot notice or except individual cases.—Clark v. Axford, 5 M. 182. Supervisor without any action by electors or township board has no authority to add amounts for township expenses, and tax so levied is void, and may void entire township roll when not distinguishable from valid part.—Lacey v. Davis, 4 M. 140.

A supervisor executing a tax warrant is held to a knowledge of any illegality manifest on the face of the warrant.—Atwell v. Zeluff, 26 M. 118. But where taxes are certified to him in legal form, he performs only a ministerial duty in spreading them upon the roll and affixing his warrant, and in such case cannot be held liable.—Wall v. Trumbull, 16 M. 228. New warrant does not detract from protective force of the process.—Bird v. Perkins, 33 M. 28. Further as to warrant, see Tweed v. Metcalf, 4 M. 579; Wisner v. Davenport, 5 M. 501.

The tax roll is not admissible in evidence to show defective certification of assessment roll, as certificates required to assessment roll are no part of tax roll and not required to be copied thereon.—Hecock v. Van Dusen, 80 M. 359. See also Redding v. Lamb, 81 M. 318.

See Secs. 41, 87 and 99.

Township treasurer's bond.

SEC. 43. (3866) The supervisor of each township on or before the fifteenth day of November in each year, shall notify the township treasurer of the amount of State and county taxes as apportioned to his township, and such treasurer, on or before

the twenty-fifth day of November, shall give to the county treasurer a bond running to the county, in double the amount of State and county taxes, with sufficient sureties, to be approved by the supervisor of the township and the county treasurer, conditioned that he will pay over to the county treasurer as required by law, all State and county taxes which he shall collect during his term of office, and duly and faithfully perform all the other duties of his office. The county treasurer shall file and safely keep such bond in his office, and shall give to the township treasurer a receipt stating that he has received the bond required, which receipt the township treasurer shall deliver to the supervisor on or before the first day of December. The supervisor, after the delivery of such receipt, and on or before the first day of December, shall deliver to the township treasurer the tax roll of his township.

Bond to be approved.

County treasurer to file bond.

Delivery of tax roll.

Township treasurer shall receive all moneys belonging to township.—2353 C. L. '97. Shall give bond.—2354 C. L. '97. Shall keep true account.—2355 C. L. '97. Further as to bond of township treasurer.—2357-63 C. L. '97. Bond by surety company.—5196 e. s. C. L. '97. Sureties to justify.—159-161 C. L. '97. Action on bond.—10050 e. s. C. L. '97. Private suits on official bonds.—9795 C. L. '97. Township treasurer should be a party to his own official bond.—Johnston v. Kimball Township, 39 M. 187. Sureties upon township treasurer's bond for his second term who were not upon his bond for his first term, are not liable for the default of their principal during his first term.—Paw Paw v. Eggleston, 25 M. 36. Sureties upon a city or county treasurer's bond are not liable in an action thereon for moneys not collected nor for moneys lawfully accounted for.—Berrien Co. Treasurer v. Bunbury, 45 M. 79. Filling vacancy in office of township treasurer.—2329 C. L. '97.

As to liability of sureties on official bonds and action thereon see Stevenson v. Bay City, 26 M. 44; Detroit v. Weber, 26 M. 284, 29 M. 24; Perley v. County of Muskegon, 32 M. 132; Johnston v. Kimball Township, 39 M. 187; Detroit v. Houghton, 42 M. 459; Rice v. Sidney Township, 44 M. 37; Berrien County Treasurer v. Bunbury, 45 M. 79; Marquette County v. Ward, 50 M. 174; Township v. Kirsten, 72 M. 1; Village of Evart v. Postal, 86 M. 325; Township of Crystal Lake v. Hill, 109 M. 246; Cheboygan County v. Erratt, 110 M. 156; Village of Allegan v. Chaddock, 6 Det. Leg. News 20; Montmorency Co. v. Putnam, 6 Det. Leg. News 885.

A township treasurer in the collection of the county tax is the agent of the county, and the county has a right of action upon his bond for money so collected and not accounted for, but no right of action against the township for its recovery.—Hart Township v. Oceana Co., 44 M. 417. A treasurer who has received state and county taxes is required to pay the sums received over to the county treasurer in the absence of legal protest from the tax payers and cannot retain it on his claim that the collection was illegal or irregular.—Berrien County Treasurer v. Bunbury, 45 M. 79.

The certificate of equalization by the chairman of the board of supervisors is no part of the assessment roll and need not be copied into the tax roll.—Boyce v. Sebring, 66 M. 210. The tax roll must be an accurate copy of the assessment roll without addition or deduction. Public policy will not permit of any tampering with the assessment roll after it is equalized and completed and certified as required by law and no description can be added or valuation be increased.—Weston v. Monroe, 84 M. 341. The power of the supervisor over the collection (tax) roll terminates when in regular course it has passed into the hands of the treasurer for collection; and any act of his thereafter in altering the roll is not an official one, but private and personal. Where supervisor after roll had been delivered to the treasurer drew a pen across the figures therein and inserted other figures in lieu thereof, held that a seizure of chattels to satisfy the amount set opposite a tax-payer's name, which had been thus changed is not justifiable; and is immaterial that by the change the amount was made less instead of greater. It is essential that the collection (tax) roll and the original (assessment roll) on file in the supervisor's office should correspond; and no lawful change can be made in the former unless sanctioned by the state of the latter, or so as to cause a substantial variance between the two.—Ferton v. Feller, 33 M. 199. Supervisors cannot bring their work to a successful completion until they have affixed to the tax roll a good and sufficient warrant. An unsigned and undated warrant is invalid.—Westbrook v. Miller, 64 M. 129.

During successive years there have been many changes in the form of warrant issued to supervisors and other assessors, and for this reason no form of warrant should be used except that last issued by the Auditor General or a form in full accord therewith.

Collector is not responsible beyond the amount of taxes actually received by him for the moneys called for by a tax roll to which no warrant is attached empowering him to enforce payment. He must have in his hands

the statutory means for collection before he can be in default for not collecting.—Weimer v. Bunbury, 30 M. 201. Time for delivery of warrant is directory.—Cooley on Taxation 428.

OF THE COLLECTING OF TAXES.

Township treasurer to collect taxes.

Treasurer's office.

Proviso.

Collection fees.

In case of apprehension of loss.

Liability of tenant.

Collector to notify tenant.

SEC. 44. (3867) On receiving such tax roll, the township treasurer or other collector shall proceed to collect such taxes. The township treasurer shall remain in his office at some convenient place in his township, village or city on every Friday in the month of December thereafter, from nine o'clock a. m. to five o'clock p. m., to receive taxes: *Provided, however,* That he shall receive taxes upon any week day when they may be offered, and on all sums voluntarily paid before the tenth day of January of the succeeding year, he shall add one per cent for collection fees, and upon all taxes paid on or after said tenth day of January he shall add four per cent. In case he may be apprehensive of the loss of any personal tax assessed upon his roll, he may proceed to enforce its collection at any time, and if compelled to seize property or bring suit in December, may add four per cent for collection fees, and when taxes are assessed on property occupied by tenant or tenants paying rental therefor, and he is assessed as occupant of said premises, the said tenant or tenants shall be liable for the taxes assessed on said property after the time said tax roll is delivered to the township treasurer or other collecting officer for the year, but not for more of the same than the amount of the rental may be while said tax roll is in his hands and which becomes due to the owner during such period, and may be collected in the same manner as provided for collecting the same from persons owning and occupying their own property; and said collecting officer shall notify all such persons occupying rented property, or so far as he may know of the same, as soon as the tax roll is delivered to him, by written notice, and shall note said notice and the date thereof against the description of said property on the roll.

Duty of woman endowed with lands to pay taxes thereon.—Rea v. Rea, 63 M. 268. Discharge of insolvent debtor does not discharge taxes.—9644 C. L. '97. The claim for personal tax stands no better or other chance against the estate of an insolvent than the claim of an individual.—Lyon v. Receiver of Taxes, 52 M. 276. Trustee to whom conveyance has been made of stock of goods, book accounts, etc., and who agrees to pay creditors as moneys are received, held to have properly paid taxes upon the stock of goods.—Tanner v. Page, 106 M. 155. Collection of taxes against bridge company.—6638 C. L. '97.

Where lands are occupied and assessed to owner or occupant it becomes a duty which the person assessed owes to the State to make payment.—Blackwood v. Van Vliet, 30 M. 118. Tenant is abundantly protected by being allowed to pay the taxes and set them off against his rent. But may not, as against ground rental, off-set taxes levied on property tenant has himself added to the realty.—Williams v. Towl, 65 M. 204. See Sub. 11, Sec. 8. Taxes paid in advance of the time payment can be enforced are voluntary payments, and cannot be recovered without statutory permission.—Cox v. Welcher, 68 M. 263.

Collector has no right to receive in payment of tax a draft of his creditor upon himself. Taxes are due not to him, but to the public, and claims against him are not a legal tender for or off-set against taxes.—Elliott v. Miller, 8 M. 132. Treasurer has no authority to receive note in payment of taxes and township will not be bound thereby, but collection of the tax may be enforced at any time during life of treasurer's warrant.—Turnbull v. Township of Alpena, 74 M. 621. While treasurer may not accept note in payment of taxes he violates no public trust if he makes a loan of his private funds and applies the loan in payment of the borrower's taxes.—Hatch v. Reid, 112 M. 430. Not competent for township treasurer to receive saw-

logs in payment of taxes and bind the township by so doing.—People v. Seeley, 117 M. 263. If he receives anything except what the law authorizes him to receive and receipts for the taxes he must make good the amount.—Jones v. Wright, 34 M. 371.

Whenever any check or bank draft shall be tendered in payment of any debt, taxes or other obligation due to the state or to any municipality therein, such check or draft shall operate as a payment made on the date said check or draft was received and accepted by the receiving officer, if it shall be paid on presentation without deduction for exchange or cost of collection: Provided, however, that no receiving officer shall be required to receive in payment of any debt, taxes or other obligation collectable or receivable by him any tender other than gold or silver coin of the United States, United States treasury notes, gold certificates, silver certificates or national bank notes.—1179 C. L. '97, Am. Act 228, 1899. Draft or check should be presented for payment within a reasonable time. No delay is reasonable beyond that which may be fairly required in the ordinary course of business without special inconvenience to the holder, or by the special circumstances of the case.—Phenix Insurance Co. v. Gray, 13 M. 191.

County and township treasurers required to pay into state and county treasuries, as the case may be, the same description of funds which they shall have received.—1199 C. L. '97.

INJUNCTION TO RESTRAIN WASTE: When any person, company or corporation shall neglect or refuse to pay any tax assessed on the lands of such person, company or corporation within the time specified by law, the township treasurer shall be entitled to an injunction to restrain waste on any of such lands upon which the taxes shall remain unpaid when it shall appear that such lands are chiefly valuable for the timber being, standing or growing thereon. And any circuit judge or circuit court commissioner of the county in which such lands are situated may, on the application of such township treasurer, make an order restraining any person from committing waste thereon.—3979 C. L. '97. Act applies only to wild lands and treasurer is made agent of the State to commence suit, which cannot be done until the expiration of the time specified by law for the payment of the taxes.—Caldwell v. Ward, 83 M. 13. But a bill may be filed upon refusal of payment at any time after the taxes can be lawfully demanded even before return of tax roll; but the refusal must have been positive and unequivocal to pay the whole or some part of the tax.—Caldwell v. Ward, 88 M. 378. Not intended that the imperative mandate of the statute should be defeated by affidavit that tax could be collected by other process or that owner did not intend to commit waste within given period or that if he should cut timber intended to there would be enough value left to pay the taxes. Where township tax alone claimed illegal there can be no hardship in injunction, as this tax can be paid under protest and rights preserved thereby.—Rossman v. Adams, 91 M. 69. Cutting of timber not for purposes of husbandry and in denial of rights of complainant in bill filed to restrain commission of waste on the land constitutes waste and is sufficient in itself in the absence of denial to justify the inference that defendant is liable to continue to commit waste and to authorize injunction.—Webster v. Peet, 97 M. 326. In Rossman v. Adams, Mich. Mandamus Cases, 807, writ was granted to compel circuit court commissioner to grant injunction.

See Secs. 100, 117.

SEC. 45. (3868) All taxes shall be collected by the several township and city treasurers or collectors, before the first day of March, in each year. Collection to be before March 1.

Supersedes provision of Sub. 12, Sec. 2484 C. L. '97, for extension of time for collection.

The Wayne county treasurer collects state and county taxes assessed in the city of Detroit, instead of the city treasurer.—Act 378, Local Acts of 1879.

Township and city treasurers or collectors have no authority to collect taxes after the expiration of their warrants, and receipts given by them for taxes thereafter cannot be considered as evidence of payment.

SEC. 46. (3869) For the purpose of collecting the taxes remaining unpaid on the tenth day of January, the said treasurer shall, thereafter during that month, call personally upon each person liable to pay such taxes, if a resident of such township, or at his usual place of residence or business therein, and demand payment of the taxes charged against him. If such person is not a resident of the township, but resides within the county, or an adjoining county, and his residence is known to the treasurer, he shall make such demand either personally or by mail. In cases of companies or corporations demand may be made at the principal or other office of such company or Personal demand. Demand on companies.

Charter provisions.

Demand by mail.

Receipt and entry.

Tax on bank shares

corporation, or by mail directed to such corporation or company, or its principal officer at its usual place of business. In cities where some special provision is made for demand or collection of taxes, the collector or treasurer shall comply with such special provision, otherwise be bound by the provisions of this act. If demand is sent by mail, the amount of the tax shall be stated and the place and time where and when it may be paid. He shall give a receipt for every tax paid, and shall enter in ink the fact of payment, and the date thereof upon his tax roll. In case of taxes assessed upon the shares of the capital stock of any bank he shall call upon the cashier of such bank and demand payment thereof, and thereupon it shall be the duty of such cashier to pay the same, and charge the amount so paid against the shares of stock so taxed.

Demand by mail, proof of.—Clark v. Adams, 33 M. 159. Question of demand under this section and of collection from personal property are foreclosed by decree.—Hughes v. Jordan, 118 M. 27; Hooker v. Bond, 118 M. 255; Shefferly v. Auditor General, 6 Det. Leg. News 240.

Collector's receipt for taxes is an official paper and evidence of the payment of the tax in suits between third parties.—Johnstone v. Scott, 11 M. 232. Stub receipt books are public records.—Burton v. Tuite, 78 M. 363; 80 M. 218. The lawful acts of a defacto tax collector as such are valid whether he was strictly entitled to the tax roll or not.—Stockle v. Silsbee, 41 M. 615. The payment of taxes may be proved by parol. Although the receipt may be used as primary evidence this does not preclude other proof.—Hammond v. Hannin, 21 M. 374.

Where a city charter provides for the collection of personal taxes by process from the receiver of taxes and by levy upon personal property, an action by the city for such taxes will not lie except as specially provided for.—Detroit v. Jepp, 52 M. 458. Legislature shall restrict power of taxation of cities and villages.—Sec. 13, Art. XV, Const.

It is the duty of an executor to pay the taxes upon real estate of the decedent in his possession pending the settlement of the estate; and where available funds are insufficient he may obtain from probate court authority to raise money by mortgaging the property.—Long v. Landman, 118 M. 174. Taxes levied on mining or manufacturing companies whose charters have expired shall be paid out of the assets by the receiver.—7099 C. L. '97.

As between vendor and purchaser under a warranty deed the obligation is upon the vendee to pay the taxes for the current year where the conveyance was prior to December 1st, and upon the vendor when it was subsequent.—Harrington v. Hilliard, 27 M. 271. Where grantee voluntarily pays tax which was a lien upon land when he received his deed and brings suit on covenant against incumbrances, grantor may show as a complete defense the invalidity of the tax.—Balfour v. Whitman, 89 M. 202.

Where treasurer receives from tax-payer worthless highway orders in part payment, receipting the taxes and returning them as paid, the taxes are thereby paid, and any suit brought for the amount of the order must be a private controversy between the treasurer and the party who paid them to him.—Staley v. Columbus, 36 M. 38.

VOLUNTARY PAYMENT: Where any person shall voluntarily and without protest pay to the officer demanding the same and having process for the collection thereof, any sum purporting by such process to be payable by such person for taxes assessed by virtue of any law of this State, neither the officer so collecting nor the officer who issued process nor the officer who made the assessment shall in consequence of such payment be liable in any action on account of any defect or invalidity in the law under which the proceedings are had, or of any defect or irregularities in the said proceedings or in such warrant or process.—3982 C. L. '97. Acquiescence in an assessment and payment of the tax estops the tax-payer from afterwards complaining of it.—Wattles v. Lapeer, 40 M. 624. A purchaser from one whose land has been irregularly assessed is not obliged to pay the tax on account of his vendor nor is he personally liable to seizure of his goods for failure to pay; but if he pays without making known his objections to the proper auditing body before the amount becomes a lien on the land, the payment must be considered voluntary.—Louden v. East Saginaw, 41 M. 18. See also Attorney General v. Burrell, 31 M. 24. Taxes subsequently paid by the holder of a void tax title are voluntary payments and cannot be recovered from the owner of the lands.—Croskery v. Busch, 116 M. 288.

Payment before officer has authority to enforce collection is voluntary.—Peninsula Iron Co. v. Crystal Falls, 60 M. 79. Money voluntarily paid in the reasonable belief that it is due and after investigation or the opportunity therefor and without fraud on the part of the recipient cannot be recovered as paid under misapprehension.—Wheeler v. Hathaway, 58 M. 77.

INVOLUNTARY PAYMENT: Payment to a public officer in compliance with a demand accompanied by a threat of immediate and actual enforce-

ment is in no sense a voluntary payment; and when the claim is unlawful and made under color of office an action lies for its recovery.—First National Bank of Sturgis v. Watkins, 21 M. 483. Action for money had and received will lie against the city to recover money involuntarily paid upon an illegal assessment where the city has failed by the irregularity of its proceedings to obtain any jurisdiction over the subject matter of the assessment. Payment made upon an illegal assessment under threat of immediate seizure and sale of the property to satisfy the same is not voluntary.—Nickodemus v. City of East Saginaw, 25 M. 456. Payment made on the demand of an officer under legal process is not voluntary although made before any levy. A party is not bound to await an arrest or seizure, but may assume that the officer will execute the process on which he made demand.—First National Bank of Sturgis v. Watkins, 21 M. 483. See also McKee v. Campbell, 27 M. 497. No protest is necessary in such case to authorize an action to recover back the money illegally demanded; but where payment is made without protest no interest can be claimed until after demand or suit.—Atwell v. Zeluff, 26 M. 118. Payment of a personal tax under protest and to avoid the immediate seizure of goods is not a voluntary payment and suit can be brought against the collector to recover it while it is in his hands.—Lyon v. Receiver of Taxes, 52 M. 271. The attempt to compel payment when there is no legal burden is regarded as a legal injury, and payment made to avoid the seizure and sale of property to pay the wrongful claim can be recovered as an extorted sum for which there was no consideration.—Specific protest is not required where payment is involuntary and made under legal duress.—Cox v. Welcher, 68 M. 263. Demand of payment by an officer having a warrant involves an implication that payment will be enforced if not made, and the authorities do not require an actual levy or proof that a levy could be made on tangible property. If the party yields to the legal menace it cannot be presumed in favor of the exactor of payment that he could have found nothing to levy on or that there was no means of enforcement.—Babcock v. Township of Beaver Creek, 64 M. 601.

As between mortgagees, payment of taxes to protect the several interests could not be considered a voluntary payment, as it inures to the benefit of the first mortgagee.—Weadock v. Noeker, 6 Det. Leg. News 5; Weadock v. Giff, 6 Det. Leg. News 6.

PAYMENT BY CASHIER: Mandamus will not lie to compel bank cashier to pay taxes assessed against stockholders, the remedy provided by the act for the collection of such taxes being clear and specific.—Eyke v. Lange, 90 M. 592; 104 M. 26. Section imposes upon bank cashier an official and not a personal duty. Upon demand it is duty of bank to pay the tax, and if performance must be enforced at law, suit should be brought against bank and not against cashier.—Muskegon v. Lange, 104 M. 19. Where personal property is sold or mortgaged for its full value before personal taxes thereon become a lien thereon the tax cannot be collected of the purchaser or mortgagee. In case of bank stock collection cannot be made of the bank as it could not reimburse itself against the stock, which was not after the sale the property of the person assessed and liable for the tax. Suit to enjoin collection from bank not necessary as the facts can be interposed as a defense in any action to collect of the bank.—St. Johns National Bank v. Bingham Township, 113 M. 203.

See Sec. 53.

SEC. 47. Am. Act 229 of 1895. (3870) Am. Act 215 of 1899. If any person, firm or corporation shall neglect or refuse to pay any tax assessed to him or them, the township or city treasurer, as the case may be, shall collect the same by seizing the personal property of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the State, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges, in the place where seized, or in the township or city of which he is treasurer, at public auction, on giving public notice of the same at least five days previous to the sale, by posting written or printed notices in three public places in the township, village or city where the sale is to be made, which sale may be adjourned from time to time if he shall deem the same necessary; and in case property shall be seized and advertised as herein directed, during the life of the warrant, the sale may take place at any time within six days after the expiration thereof. If it becomes necessary to sell personal property which brings more than the amount of taxes

Seizure of personal property for taxes.

Sale of property seized.

Notice of sale.

Surplus proceeds.

and charges, the balance shall be returned to the person, firm or corporation from whose possession the property was taken, except as hereinafter provided. If the property so distrained cannot be sold for want of bidders, and in such cases only, the treasurer shall return a statement of the fact, and such tax shall be returned as unpaid. The township treasurer, if otherwise unable to collect a tax on personal property, may sue the person, firm or corporation to whom it is assessed, in the name of the township, village or city, and garnishee any debtor or debtors of such person, firm or corporation. The tax roll shall be prima facie evidence of the debt sought to be recovered: *Provided*, That when any person having possession of the personal property of any other person, firm or corporation shall be assessed for such property and shall be obliged to pay the taxes thereon, such person, firm or corporation so paying the taxes, may recover of the person, firm or corporation for whose benefit the taxes were paid, the money so paid, with the interest thereon, in an action of assumpsit: *Provided further*, That in case where levy is made, as hereinbefore provided, for taxes assessed upon land, the levy shall be released if, within ten days after it is made, the persons having the title to said land shall deliver to the Commissioner of the State Land Office a deed conveying the land to the State as to an individual, free from all mortgages or liens whatsoever, and in such case the taxes thereon shall be returned as in the case of other taxes unpaid upon lands, and the Auditor General shall charge back to the county all local taxes on said land and shall cancel the State taxes thereon; and in case land is so deeded to the State it shall thereafter be subject to all the provisions of law governing lands deeded to the State by the Auditor General under the provisions of section one hundred twenty-seven of act two hundred six of eighteen hundred ninety-three as amended: *Provided further*, That in case the land is deeded to the State as herein provided the Board of State Auditors shall audit and allow the actual expenses of the township treasurer incurred in making the levy on said land and compensation therefor at two dollars per day, the account therefor to be certified by the Commissioner of the State Land Office, and the amount thereof shall be paid out of the general fund of the State.

Return of unpaid taxes.

Collection by suit.

Tax roll evidence of debt.

Proviso.

Levy for taxes on land. Conditions of release.

Land deeded to State.

Expense, how paid.

Levy on crops.—10321 C. L. '97; sale of.—10327 C. L. '97. Levy on shares.—10335-7 C. L. '97. See Newberry v. D. & L. S. Iron Co., 17 M. 141. Sale of perishables.—10360 C. L. '97. Resisting officer.—11327 C. L. '97. As to the application of 10318 C. L. '97 to a levy on property upon which there is a chattel mortgage in view of the provision of this section that no property shall be exempt from seizure for taxes—quere.

Levy cannot be made after return day.—Blair v. Compton, 33 M. 424. Where lands are assessed as non-resident ("or owner unknown") collector has no authority to levy upon any property to satisfy a tax so assessed.—Tweed v. Metcalf, 4 M. 579. An officer's release of a levy discharges it.—Weber v. Henry, 16 M. 399. A levy effected by committing a trespass is bad.—Bailey v. Wright, 39 M. 98. The power of the township treasurer to collect the taxes or to sue therefor is confined to the time the warrant is in force.—Putnam v. Township of Fife Lake, 45 M. 125. A levy upon personal property for collection of a tax is prima facie a satisfaction of the tax.—Henry v. Gregory, 29 M. 68. See Farmers & Mechanics' Bank v. Kingsley, 2 Douglass, 379. Growing crops are a part of the realty, but for the purpose of levy and sale on execution are treated as personalty.—Preston v. Ryan, 45 M. 174.

The tax roll is itself as complete and adequate as an execution on a judgment would be if there are goods and chattels within the treasurer's jurisdic-

tion.—Staley v. Columbus, 36 M. 38. Same rule must be applied to sale by town treasurer to satisfy tax as to judicial sales. So held where two horses not matched and either of which was worth more than the tax, were sold together and not offered separately.—Leaton v. Murphy, 78 M. 77. Exemption from execution under 10322 C. L. '97 does not release property from liability to seizure and sale for taxes for which its owner is liable.

No property of the person liable for a tax is exempt from seizure and sale for taxes. If the provisions of this section were fully observed by collecting officers there would be much less unpaid taxes returned.

Where the supervisor's warrant is fair on its face township treasurer is not personally liable for enforcing the collection of an excessive tax.—Byles v. Genung, 52 M. 504. But warrant goes only to the extent of protecting him from personal liability as trespasser or wrong-doer.—LeRoy v. East Saginaw City Railway, 18 M. 233. Collector is protected by process that is fair on its face against irregularities except his own.—Bird v. Perkins, 33 M. 28. A tax assessment is in the nature of a judgment and cannot be assailed for fraud or irregularity in a suit against an officer who holds process fair on its face for enforcing a tax based upon it.—Moss v. Cummings, 44 M. 359. Collector not liable in trover for property seized under tax roll and warrant fair upon their face; but roll and warrant are not fair on their face when for a tax levied under an invalid law.—Mogg v. Hall, 83 M. 576. Collector is not liable for value of chattels seized for taxes under warrant fair on face even though demand for return thereof be made before sale.—Curtiss v. Witt, 110 M. 131. A warrant addressed to the "treasurer of the township of ....." signed by the supervisor of St. Joseph township and annexed to the tax roll of that township is not fatally defective.—First National Bank of St. Joseph v. Township of St. Joseph, 46 M. 528; Auditor General v. Stiles, 83 M. 460. Further as to warrant see Clark v. Axford, 5 M. 182.

A law prescribing who shall be liable for the payment of taxes and whose property may be levied on therefor impliedly forbids the collector to seize the property of others or by act or omission make the tax a charge on it, and the owner is at liberty to buy and sell in reliance on the officer's implied duty toward him, and to understand that the latter is not protected by his commission unless he keeps within the powers given by it.—Raynesford v. Phelps, 43 M. 342. A mere sale of another's hay in the mow under a tax warrant does not amount to a conversion where the owner did not acquiesce and his possession was not disturbed. A sale of a growing crop might be different.—Mills v. Van Camp, 41 M. 645. Assessment to firm which has been succeeded by corporation is valid against the corporation and it may be enforced as such.—Petrie Lumber Co. v. Collins, 66 M. 64. Taxes paid under protest after seizure of property, collector's warrant having expired before seizure, may be recovered.—Phillips v. New Buffalo, 68 M. 217. A note taken by a township treasurer in his own name on the sale of property for taxes is void in his hands on the ground of public policy.—Chapman v. Remington, 80 M. 552. After levy and agreement with city authorities, check for amount was deposited with city treasurer and amicable suit instituted. Held, payment was involuntary.—Gebhart v. East Saginaw, 40 M. 336.

Treasurer seized personal property belonging to plaintiffs to satisfy taxes levied upon real estate not owned by nor listed to them, which they paid under verbal protest to secure a release of their property and brought suit against township to recover, prior to which treasurer had paid State and county taxes to county treasurer. Held, payment was involuntary; that treasurer's action was not an attempt to collect an illegal tax assessed against plaintiff's property or against them personally, nor did his warrant direct or authorize him to demand or enforce collection against them; that the taxes were not assessed to them or against their property and they had no occasion to appear before town board in relation thereto nor to deliver to treasurer statutory protest; that the township by its officers coerced payment without any claim against plaintiffs or their land, and without even color of authority to take plaintiff's money, and that the fact of payment to the county treasurer of the State and county taxes thus collected was immaterial to the issue; that the section providing for bringing suit within thirty days after payment of tax under protest does not apply to this case, and the defendant stands in no more favorable position than if it had received plaintiff's money under a threat to take or sell their property under pretense of legal authority so to do without any assessment roll or warrant whatever.—Babcock v. Township of Beaver Creek, 65 M. 479. Township is liable in action of assumpsit to recover back money illegally collected by the treasurer in his official capacity for taxes illegally assessed.—Daniels v. Watertown, 55 M. 376.

Personal property of a railroad is liable to seizure and sale for unpaid taxes and the company's coal supply is not exempt as a part of the entirety. "Person" includes bodies corporate and politic.—C. & N. W. Ry. Co. v. Ellson, 113 M. 30. Where personal property has been levied upon to satisfy tax on bank stock which is claimed to be illegal and void the remedy at law is adequate. An action of trover for the value of the property seized would raise the question or complainant might pay the amount of the tax under protest and test its validity in an action to recover back the amount paid.—Hagenbuch v. Howard, 34 M. 1; see also Mears v. Howarth, 34 M. 19. Where land was assessed to one corporation the action of township treasurer in seizing property of another corporation who owned the property assessed held lawful (corporation known by both names).—Iron Star Co. v. Wehse, 117 M. 487. Goods assigned for benefit of creditors are exempt from seizure to satisfy taxes against the assignor.—Lyon v. Receiver of Taxes,

52 M. 271. But the assignment must have been made before the first day of December in the year of assessment; see Sec. 40.

Where one, on the day fixed for the sale of his property for taxes, sent his representative to attend the sale, who, without protest, took part in the bidding and upon the property being sold to him informed the treasurer that if he would go to the office of the owner in another township he would receive the amount of the bid, such owner could not, after paying the treasurer as agreed, but under protest, claim that the payment was involuntary and maintain an action to recover the amount so paid.—Loud & Sons Lumber Co. v. Township of Vienna, 6 Det. Leg. News 165.

REPLEVIN: No replevin shall lie for any property taken by virtue of any warrant for the collection of any tax, etc.—748, 10651 C. L. '97, does not apply where property seized belongs to one having no relation to the tax assessed.—Travers v. Inslee, 19 M. 98. Nor where there could have been no valid tax levied.—LeRoy v. East Saginaw City Railway, 18 M. 233. Nor where there was no jurisdiction to levy the tax.—McCoy v. Anderson, 47 M. 502. But the mere fact that the tax is invalid is not sufficient to authorize replevin.—Hill v. Wright, 49 M. 230. Prohibition applies only where valid tax might have been imposed.—LeRoy v. East Saginaw City Railway, 18 M. 233. Applies only to cases where the property seized is that of the person or of one in privity with the person against whom the tax was assessed.—Travers v. Inslee, 19 M. 98.

Replevin will not lie for property seized by virtue of a writ, fair on its face, when it appears that the property seized is subject to seizure on such process if valid.—Northwestern Cooperage and Lumber Co. v. Scott, 6 Det. Leg. News 1055.

Property being rightfully assessed, replevin will not lie.—Hood v. Judkins, 61 M. 575. But lies for property seized to satisfy a void tax.—Boyce v. Cutter, 70 M. 539. Does not preclude replevin by one who is a stranger to the tax and not in privity with the person assessed. Purchaser of personal property before lien for taxes assessed thereon has attached is not in privity with the vendor so as to prevent his bringing replevin against the collector who has seized the property for such taxes.—Tousey v. Post, 91 M. 631. Replevin of property seized to satisfy a void tax is proper remedy.—Lantis v. Reithmiller, 95 M. 45.

Where a tax levy inflicts an injury cognizable by law, the injured party must seek redress otherwise than by an action of replevin for property seized for the tax. The statutory provision against bringing replevin in case of seizure for taxes cannot be defeated by a mere claim that the tax is invalid if it is apparently regular; and where replevin is brought it is proper on quashing the writ to give judgment for defendant for the amount of the tax lien.—Hill v. Wright, 49 M. 229. Replevin will not lie for saw logs seized to satisfy taxes assessed in town where logs were liable for assessment, which assessment appears to be regular and valid.—Hill v. Graham, 72 M. 529.

Replevin will not lie where tax roll and warrant appear regular upon their face.—West Michigan Lumber Co. v. Dean, 73 M. 459; Thaver Lumber Co. v. Dean, 73 M. 463; Boyce v. Peterson, 84 M. 490; Fletcher v. Post, 104 M. 424; Forster v. Brown, 5 Det. Leg. News 722. Even though claimed to be held by virtue of a county treasurer's warrant, the issuance of which was upon an insufficient return by a township treasurer.—Boyce v. Stevens, 86 M. 549. The vendee in a bill of sale made without consideration and for the express purpose of defeating the collection of taxes upon the goods which remained in the possession of the vendor cannot maintain replevin for the property described in such bill and which is seized for taxes.—Gray v. Finn, 96 M. 62. Replevin will not lie for the recovery of property seized for a tax assessed upon a piece of unoccupied land which was assessed in one parcel to the owner of the record title, a part thereof having been transferred to a son by an unrecorded deed, the property seized belonging to the father.—Scott v. Wheland, 96 M. 624. Regularity of proceeding anterior to a warrant cannot be determined by trover or replevin.—Curtiss v. Witt, 110 M. 131. Validity of tax levied in pursuance of law cannot be tested in replevin.—Roberts v. Denio, 118 M. 544. One in rightful possession of personal property as lessee can maintain replevin in case such property is seized to satisfy taxes assessed against the lessor.—Whittaker v. Fuller, 96 M. 141. Husband may maintain replevin against an officer for wife's clothing purchased with his money or upon his credit and seized upon a tax warrant for taxes assessed against wife's separate property.—Smith v. Abair, 87 M. 62.

SUIT: Indebitatus assumpsit is the proper form in which township treasurer may bring suit in the name of the township for taxes, the count explaining the subject matter of the debt; but a special declaration is not requisite.—Putnam v. Township of Fife Lake, 45 M. 125. In suit for collection of taxes on personal property collector may testify to the fact and time of making his return. The production and identification of the tax roll and of the assessment and levy of such a tax thereon against defendant makes a prima facie case. In suit based upon county treasurer's warrant, collector must show that he made verified return of unpaid personal property taxes.—Muskegon v. Martin Lumber Co., 86 M. 625. Collector may sue for taxes on personal property, but as to real property the remedy as provided by statute must be resorted to.—Sturgis v. Flanders, 97 M. 546.

Treasurer has no authority to bring suit after his original or supplemental warrant has expired. Suit can only be resorted to when person assessed has no property that can be reached under the warrant or when he resides beyond the treasurer's jurisdiction.—Port Huron v. Potts, 78 M. 435. Personal tax assessed to executors may be recovered in an action against executor

though he has distributed the estate since the assessment.—Orion Township v. Axford, 112 M. 179. Judgment for personal tax may include interest from time it became due and payable. Tax collector called upon delinquent tax payer after the expiration of his warrant for the tax assessed upon personal property which he promised to pay. Held to be a sufficient demand of payment to warrant commencement of suit for its collection after its return to the county treasurer and the issuance of a new warrant which was still in force and which suit is not prematurely brought. —Grand Rapids v. Welleman, 85 M. 234. Mandamus will not be granted to enforce collection of taxes denying a motion to quash based upon the merits and accompanied by a stipulation of facts.—Martin Lumber Co. v. Menominee Circuit Judge, 116 M. 354. Action for delinquent personal taxes will not lie except against the person assessed.—Township of Laketon v. Akeley, 74 M. 695.

See Secs. 40, 48, 49.

Collector's fee for sale.

SEC. 48. (3871) In case of a distress and sale of goods and chattels, for the payment of any tax, the treasurer or other collecting officer may also collect on such sale one dollar and fifty cents over and above the tax, as his fees for making such sale, which fees and percentage hereinbefore provided shall be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such treasurer or collecting officer to require the payment of one dollar and fifty cents as his fee for making such distress, and to enforce payment of the same, if need be, by making sale notwithstanding the tax shall have been paid. And whenever any personal property having been assessed to any person in any township or ward in this State shall be removed therefrom before the taxes assessed thereon shall be collected, and there being no other personal property sufficient in said township or ward whereon the treasurer or other collecting officer can levy and collect said taxes, or any of them, he shall have full power, and it shall be his duty to make a statement, duly certified by him to be correct and true, showing that personal property has been assessed to such person, naming him, the valuation thereof, the various taxes thereon, and the total thereof, as appears from the roll in the hands of such treasurer, and that such property has been removed from such township, ward or city since the assessment thereof, and that the taxes or some portion of them has not been paid; which statement shall be witnessed and acknowledged in the same manner as deeds of real estate are acknowledged, and shall be received in all courts and other places as evidence of the facts therein contained, without proof of its execution, and shall be *prima facie* evidence of the validity of the tax therein named against the person therein named, and shall be full and ample authority to the treasurer or other tax collector to whom it shall be sent to levy and collect the same in the same manner as other personal taxes are collected by him when spread upon his own roll. Such statement may be sent to the township or city treasurer, or other collecting officer of any township or city in this State, where the person against whom such assessment was made may have property, and the treasurer, or other collecting officer to whom such statement shall have been transmitted, shall, upon the receipt of the same, proceed to collect said taxes out of any property belonging to the owner of such property so taxed as aforesaid, within

Sale for fee.

Collection of taxes on personal property removed.

Valid statement of taxes on personal property removed.

Collection where found.

his jurisdiction, liable to be seized for taxes, together with double collection fees therefor, and the further sum of twenty-five cents to defray the expense of transmitting the taxes so collected as hereinafter provided, and shall give his receipt therefor. The said treasurer, or other collecting officer, shall thereupon transmit the taxes, and one-half of the collection fees as aforesaid collected, to the township treasurer, or other collecting officer, from whom he received such statement, and the latter shall, upon the receipt of said taxes and collection fees, mark the said taxes in ink as paid upon his tax roll, and the date of the receipt of the same, retaining the collection fees so received as aforesaid, as his fees in the matter of the collection of said taxes. Executions issued upon judgments rendered for any tax, may be levied upon any property, without exemption, the same as though seized for sale under warrants issued for the collection of taxes by township supervisors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments.

Fees.

Accounting.

Levy of execution.

Claim for surplus of sale.

SEC. 49. (3872) Whenever a surplus arising from the sale of any property distrained for taxes, shall be claimed by any other than the person for whose tax such property was sold, and such claim shall be contested, either of the contestants may prosecute an action against the other, as for money had and received, and in such action the rights of the parties to such surplus shall be determined. For the purpose of such action the defendant shall be deemed to be in possession of the surplus in the hands of the treasurer, and upon the presentation to said treasurer of a certified copy of the final judgment rendered in such action he shall pay over the same to the party recovering such judgment, and no such treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus upon the production of a certified copy of the judgment as aforesaid. In any action brought pursuant to this section no other case shall be joined, nor shall any set off be allowed, and if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof.

Defendant deemed in possession.

Treasurer not liable.

Rule in action.

Disability of township treasurer.

Township board to appoint.

SEC. 50. (3873) In case any township treasurer shall neglect to give either of the bonds required, or shall die, resign or remove out of the township or become unable to discharge the duties of his office, the township board shall forthwith appoint a new treasurer, who, on giving the required bonds, shall execute the duties of the office for the remainder of the year and until his successor is elected and qualified. The township clerk shall immediately notify the county treasurer of such appointment.

See Sec. 43.

Sheriff to collect in certain cases.

SEC. 51. (3874) In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the town-

ship board shall fail to appoint a treasurer who shall give such bond, and deliver a receipt for the same to the supervisor by the tenth day of December, the supervisor shall deliver the tax roll with the necessary warrant directed to the sheriff of the county, who shall, before he receives said tax roll, execute and deliver like bonds required of the township treasurer, and make like collections and returns, and shall be entitled to the same compensation on all taxes collected by him by virtue of such warrant as is allowed to the township treasurer, and for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer, and suit may be brought on such sheriff's bond under the same circumstances as on those of a township treasurer. Bonds. Compensation. Powers.

The collection of taxes by the sheriff being a duty foreign to his position invests him with a new office not within the contemplation of sureties on his official bond as sheriff.—White v. East Saginaw, 43 M. 567.

SEC. 52. (3875) In case the township treasurer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him to be paid out for the following purposes: The amount of school taxes collected to be paid on the order of the school district officers, the amount collected for general township purposes to be paid on the order of the township board, the amount collected for highway purposes to be paid on the order of the commissioner of highways countersigned by the township clerk or supervisor, and the amount collected for any special fund to be paid on the order of the proper officer, but in no case shall the amounts collected for any one fund be paid on the orders drawn on any other fund. When collection incomplete. Amount collected, how disbursed.

Township clerk to keep separate account with each fund.—2338 C. L. '97. Where a tax payment is expressly made to satisfy a particular assessment, the collector if he receives it, must apply the money to the purpose specified and no other.—Fuller v. Grand Rapids, 40 M. 395.

SEC. 53. (3876) Any one may pay the taxes or any one of the several taxes or any part thereof on any parcel of land and the treasurer shall note across the face of the receipt in ink, any portion of the taxes remaining unpaid. He may pay any tax, whether levied on personal or real property, under protest to the treasurer, specifying at the time in writing, signed by him, the grounds of such protest, and such treasurer shall minute the fact of such protest on the tax roll and in the receipt given. The person paying under such protest may, within thirty days and not afterwards, sue the township for the amount paid, and recover, if the tax is shown to be illegal for the reason specified in such protest. Any person owning an undivided share, or other part or parcel of real property assessed in one description, may pay on the part thus owned by paying an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment, and the receipt given and the record of the receiving officer shall show such description, and by Partial payment. Payment under protest. Payment of tax on undivided share.

whom paid; and in case of the sale of the remaining part or share for non-payment of taxes, he may purchase the same in like manner as any disinterested person could. Any person having a lien on property may, after thirty days from the time the tax is payable, pay the taxes thereon, and the same may be added to his lien and recovered with the rate of interest borne by the lien. A tenant of real estate may pay the taxes thereon and deduct the same from his rent, unless there be an agreement to the contrary. Such payment may be made to the township treasurer while the tax roll is in his hands, or afterwards to the county treasurer. The receipt given shall be evidence of such payment.

Rights of holder of lien.

Rights of tenant.

Evidence of payment.

Assessment to and payment of taxes by claimant is insufficient to continue an adverse possession previously held by his grantor.—Miller v. Davis, 106 M. 300.

One who has a lien on lands has no right to intervene to pay the tax unless it is manifest that the land owner will not.—Pond v. Drake, 50 M. 302. But this section fixes the time when he may do so. Taxes paid by the mortgagee which should be paid by the mortgagor may be added to increase the charge upon the mortgaged premises.—Payne v. Avery, 21 M. 524. It is competent for a mortgagee to protect his mortgage interest against taxes, and the amount so paid may properly be included in a foreclosure decree.—Vaughn v. Nims, 36 M. 297; Walton v. Bagley, 47 M. 335. See also Farwell v. Bigelow, 112 M. 285; Fuller v. Kane, 110 M. 549. Taxes can generally be enforced only by the statutory remedies, and payment made by the mortgagee of land does not necessarily give him a right of action against the mortgagor as for money paid to his use, since the mortgagee would not have been personally liable for the payment of the taxes and the mortgagor's failure to pay them would only have rendered the property subject to seizure while the warrant was good for their collection.—Raynesford v. Phelps, 43 M. 342.

PAYMENT UNDER PROTEST: Where sale of land is threatened the test whether owner may safely pay under protest to prevent the sale and afterward sue to recover back the money seems to be whether the sale if made would constitute a cloud upon the title. A sale to satisfy an alleged tax which has no semblance of legality but is totally void on its face would not cloud title. An assessment under a statute which is unconstitutional and void, cannot be the basis of a sale that could cloud title. A threat to enforce payment of such a tax, no seizure of the goods or of the person having been made or threatened or authorized, where the officer has no authority to compel payment otherwise than by the sale of the land, which could injure no one, would not constitute a payment made in consequence thereof anything but a voluntary payment. A protest cannot alone change what would otherwise be in law a voluntary payment into an involuntary one, or change the rights of the parties; and one paying voluntarily under a claim of right cannot afterwards recover back the money although he protested at the time against his liability.—Detroit v. Martin, 34 M. 170. But this rule does not apply where a law under which levy is made is constitutional. Payment of tax under protest where property is threatened with seizure under tax warrant, or real estate is threatened to be sold is not voluntary.—Whitney v. Port Huron, 88 M. 268. In the case of taxes mailed township treasurer with notice of protest, notice held provable by accurate copy put in evidence, after proof of service.—Mich. Land, etc., Co. v. Republic Township, 65 M. 628.

Payment of personal tax before collector is authorized to inforce collection and without demand or threatened levy is voluntary and suit to recover cannot be maintained.—Baker v. City of Grand Rapids.—65 M. 76; Mills v. Township of Richland, 72 M. 100. A specific protest must be made when taxes are voluntarily paid or an action to recover back the payment will not lie. In suit to recover back taxes paid voluntarily under protest, the tax must be shown to be illegal for the reason specified in the protest.—Peninsula Iron Co. v. Crystal Falls, 60 M. 79. See also Mills v. Township of Richland, 72 M. 100. It is not the protest but the illegality of the tax that gives cause of action to recover taxes paid under protest. Payment without duress or levy is voluntary though made under protest. Irregularities in assessment which were not prejudicial to protestant give no right of recovery.—White v. Millbrook, 60 M. 532. See also Hill v. Graham, 72 M. 659.

Assumpsit lies to recover back an unlawful tax exacted under color of existing process and paid with protest; and interest will be allowed in such case. A municipality cannot escape liability for the amount of a tax illegally exacted on the grounds that the money was not to be used for municipal purposes.—Grand Rapids v. Blakely, 40 M. 367. Action lies against a municipal corporation to recover back illegal assessments paid under compulsion. Paying a tax under protest is an assertion of illegality.—Louden v. East Saginaw, 41 M. 18. If tax proceedings on their face are fatally defective action will lie to recover back money paid under them.—Moss v. Cummings, 44 M. 359. The township treasurer collects taxes as the agent of the township

and the township is liable for taxes wrongfully levied and collected except the amount paid county treasurer for State and county taxes, although paid out on school or highway orders.—Byles v. Golden Township, 52 M. 612. Action to recover back a tax paid under protest will lie when the assessment is of a particular class of property clearly identified and separable.—Herrick v. Big Rapids, 53 M. 554.

Payment of illegal tax under written protest after levy by an officer is involuntary though the tax-payer himself pointed out to the officer property on which the levy might be made.—Roedell v. White Cloud, 108 M. 506. A property owner paying taxes on a void assessment roll under protest and after demand does not pay them voluntarily.—Thompson v. Detroit, 114 M. 502. Recovery of personal tax paid under protest is not affected by immaterial variance of names such as did not mislead.—Barnhard v. White Cloud, 108 M. 508.

One who under protest has paid taxes assessed upon his lands cannot maintain an action for the repayment of such taxes against a city whose charter provides that it shall be sufficient defense to any action or proceeding against the city for the collection of any claim that such action or proceeding was begun before the common council had time to pass upon or investigate the claim, where he commenced his action before the next meeting of the council after the one at which the claim was presented.—Mason v. Muskegon, 111 M. 687.

Right of recovery of tax paid under protest exists only where tax itself is illegal. Levy on logs owned by lumber company to satisfy tax upon personal property of its president held not within the statute; that warrant did not authorize the seizure and that remedy was against officer or by replevin against the purchaser if sale was made. Tax having been paid before time for sale, payment was held to be voluntary.—Lumber Co. v. Manistee, 100 M. 466.

In action to recover taxes paid under protest, no showing can be made nor recovery had upon any ground not named in the protest.—Hinds v. Township of Belvidere, 107 M. 664. In order to warrant judgment for plaintiff in suit to recover taxes paid under protest, there must have been such jurisdictional defect as to render the tax void, and not mere irregularity in spreading tax or informality in warrant. Recovery of school tax paid under protest is not dependent upon formality of certificate furnished supervisor as to said taxes but depends upon whether said taxes were authorized by the district.—Sheldon v. Marion, 101 M. 256.

A protest against payment of special highway tax because levied against property of township to pay highway orders of certain road districts instead of being levied against the property of each road district on which orders were drawn, is sufficient.—McFarlan v. Township of Cedar Creek, 93 M. 558.

Action to recover drain taxes paid township treasurer under protest cannot be maintained against the township, Sec. 53 being applicable only to taxes under the general tax law.—Taylor v. Township of Avon, 73 M. 604. A township treasurer does not receive a ditch tax for the township, and assumpsit will not lie against the township to recover such a tax levied under unlawful proceedings.—Camp v. Algansee Township, 50 M. 4. In case of drain tax paid under protest action should be against collecting officer.—Hillyer v. Jonesfield, 114 M. 644. Action will not lie to recover drain tax paid under protest on ground of failure to file record with county clerk.—Matrau v. Tompkins, 99 M. 528. City taxes paid under protest cannot be recovered back merely because warrant had expired. Where collector threatens to sell property for void taxes, owner may pay under protest and recover back.—Lumber Co. v. City of Alpena, 97 M. 499.

Bill for accounting and that taxes levied and collected under a misapprehension of the requirements of the statute, but which were paid from year to year without protest, be returned to tax-payers cannot be sustained in absence of averment of fraud in assessment or levy.—Manistee Lumber Co. v. Township of Springfield, 92 M. 277. Where city charter so provides presentation to the council of a verified claim for money paid under protest for taxes is a condition precedent to bringing suit to recover.—Crittenden v. Mt. Clemens, 86 M. 220. Where (under law of 1891) tax assessed to bank on mortgages was paid under protest, held that the right to recover was lost by failure to appeal to board of review.—Michigan Savings Bank v. Detroit, 107 M. 246.

PART PAYMENT: Where part of the tax only is paid it should be all of certain taxes or on a definite part of the land, or if neither is practicable, payment may be accepted and receipted for on an expressed undivided interest in the description. In such cases the treasurer should note across the face of the receipt in ink (receipts should never be written with a pencil) the items of tax unpaid, or the definite or undivided part of the description on which the tax remains unpaid. The importance of strict compliance with the law in this regard should be apparent to every receiver of taxes.

See Secs. 46, 59, 107, 117.

Settlement by township treasurer.

SEC. 54. Am. Act 225 of 1897. (3877) Within one week after the time specified in his warrant, the township treasurer shall pay to the county treasurer, all State and county taxes collected.

A collector who has received state and county taxes is required to pay the sums received over to the county treasurer in the absence of legal pro-

test from tax-payers and cannot retain it on his claim that the collection was illegal or irregular.—Berrien Co. Treasurer v. Bunbury, 45 M. 79. Township orders received in the township treasury as money must be accounted for as money received.—Byles v. Golden Township, 52 M. 612.

Where one whose duty it is to collect and pay to the proper authorities municipal taxes, by mistake pays to the county treasurer a sum which should have been paid to the city treasurer it is held that he may proceed by mandamus, in his individual name, to compel the county treasurer to make restitution.—Webster v. Wheeler, 5 Det. Leg. News 937.

Mandamus will not lie to compel county treasurer to refund taxes unlawfully levied if there is any issue involved which should go to a jury.—Byles v. Golden Township, 52 M. 612.

In case of taxes voluntarily paid, but regarding which there is an irregularity or any want of authority to assess or levy, amount received should be paid over the same as if no such irregularity or want of authority existed.—3983 C. L. '97.

See Secs. 42, 44.

ON THE RETURN OF DELINQUENT TAXES.

Delinquent taxes on land.

SEC. 55. (3878) If the township treasurer or other collecting officer shall be unable to collect any of the taxes on his roll assessed on real property, he shall make a statement of the same with a full and perfect description of such property, as assessed upon said roll, with the several taxes assessed upon

Verification of statement.

each parcel thereof, which statement shall be verified by the affidavit of such treasurer or collector that such taxes remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels liable to pay such sums whereupon he could levy the same. .

Return of delinquent personal taxes.

The said treasurer or collector shall also make a statement showing the taxes upon personal property remaining unpaid, and the names of the persons against whom assessed, and the amount against each; and in such statement shall set forth the amount of all

Verification.

moneys collected by him on account of taxes, which statement shall be verified by the affidavit of such treasurer, in which he shall state in substance that the sums mentioned in such statement as uncollected remain unpaid; that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the person liable to pay such sums whereupon he could levy the same, and that the amount of moneys collected

County treasurer shall compare.

by him upon such tax roll is truly stated therein. The county treasurer shall immediately compare such statements with the

Certificate.

said tax roll, and if he finds the same to be correct, he shall add to each of them a certificate showing that he has examined and compared such statements with the said tax roll and found them correct, and shall file such statements in his office: *Provided*,

When county treasurer may reject tax.

That the county treasurer shall, at the time of making such comparison, and at no other time, reject any tax upon any land which shall have been twice assessed, or upon any parcel which shall be so erroneously or defectively described upon the

Receipt to collector.

tax roll that it cannot be correctly and easily ascertained. The county treasurer shall give to the township treasurer a receipt, stating the amount of moneys paid to him by such treasurer, for which the township shall receive a credit on the books of the county treasurer, and he shall also give the township treas-

Collector's voucher.

urer a statement of all taxes rejected by him, the amount of delinquent taxes returned, and the amount of any unpaid taxes

on personal property, which receipt and statements shall be the vouchers of such treasurer of the amounts specified therein.

The treasurer's return of delinquent lands must describe the lands as they are described on the tax roll. He has no authority to change the descriptions in any particular. The descriptions should be entered on his return in the numerical order of the sections, followed by descriptions in cities and these by descriptions in villages, if any, concluding with platted lands not in corporate limits, if any. If part payment of the taxes has been made the return should not include the taxes which have been paid or the part of the description on which all the taxes have been paid.

City treasurers have no more authority for withholding their returns after March 1 than have township treasurers.

A return which is neither signed by the collector nor verified by his oath held to be unofficial and of no legal value.—Upton v. Kennedy, 36 M. 215. Failure of township treasurer to verify his return of delinquent tax land is fatal to sale.—Seymour v. Peters, 67 M. 415. Where the township treasurer's return does not show that personal demand was made for the taxes, but was in statutory form, held sufficient, as if personal demand was necessary it must be presumed to have been made.—Dickison v. Reynolds, 48 M. 159. Return of inability to find the personal property in possession of person chargeable with payment of taxes is a condition precedent to a valid sale, and in the absence of such return the existence of such personal property may be shown to defeat such sale.—Tompkins v. Johnson, 75 M. 181. Return of taxes made before the expiration of time for making the return is no wrong to the taxpayer, whose right to make payment after the return is the same as before.—Drennan v. Bierlein, 49 M. 272; Shefferly v. Auditor General, 6 Det. Leg. News 240. Premature return does not affect the jurisdiction or void the decree.—Conley v. McMillan, 6 Det. Leg. News 317. In Bailey v. Haywood, 70 M. 188, it was held that premature return by township treasurer renders sales therefor void; but this holding was under a law that provided for office charges after the lands were returned.

One who had purchased the equity of redemption of mortgaged lands after a tax had been assessed thereon had personal property on the land that the collector falsely returned nulla bona and the tax became a lien on the land from which the owner of the mortgage had to redeem after foreclosure. Held that the latter had a right of action at common law against the collector for injury resulting to him in being compelled to redeem from the tax sale.—Raynesford v. Phelps, 43 M. 342. A tax sale for a void tax does no such injury to a mortgagee as will sustain an action against the tax collector for damages; and in such a suit the collector is not estopped by his return from showing that the tax was void.—Raynesford v. Phelps, 49 M. 315.

County treasurer is not authorized to pass upon irregularities in returns, but is required to accept returns from city when made as charter provides.—City of Jackson v. Jackson County Treasurer, 117 M. 305. But he should reject all erroneous descriptions as provided in this section. This he must do at the time of the comparison, and should not include these rejected descriptions in his transcript sent to the Auditor General.

VILLAGE TAXES: Renewal of warrant for collection of village taxes by order of council is valid though made after expiration of warrant.—Village taxes not invalidated by reason of president extending warrant to October 7, when council has authorized its renewal to a later date.—Lumber Co. v. Village of Oscoda, 97 M. 221. No formal notification to the officer to whom the warrant is directed is necessary to a valid extension of it.—Griswold v. Union School District, 24 M. 262.

Town treasurer must account for the full amount of the tax roll either in money or the return of unpaid taxes. A township must make good the amount of the default of its treasurer.—Oceana County v. Hart Township, 48 M. 319. Statement of collector under oath of all moneys received is required to secure an accurate accounting of all the moneys in the collector's hands, and has no reference to the return of lands for delinquent taxes.—Tweed v. Metcalf, 4 M. 579..

See Secs. 56, 112.

Discharge of township treasurer's bond

SEC. 56. (3879) The county treasurer shall thereupon indorse the fact of such settlement on the bond of the township or city treasurer, which indorsement shall operate as a discharge of the treasurer and his sureties from the obligation thereof, unless the return of such treasurer is incorrect, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such incorrect returns; and the township treasurer shall immediately deposit his tax roll with the county treasurer, who shall file and preserve the same in his office, and which said roll or a duly certified copy thereof shall, for all purposes, in all courts, suits and proceedings, be taken, held and

Tax roll and copy to be filed with county treasurer.

used as evidence, in the same manner and with like effect as the original roll. The county treasurer shall give the township or city treasurer a statement of all the personal taxes which remain uncollected, taken from the return of the latter, with a warrant authorizing him or his successor to collect them according to law, and thereafter such treasurer or his successor shall have the same power to collect such taxes as under the original warrant.

Uncollected personal taxes.

County treasurer's warrant.

City and township treasurers required to pay to the county treasurer the full amount of the tax levy upon personal property whether it has been collected or not.—City of Muskegon v. County of Muskegon, 6 Det. Leg. News 1046.

County treasurer can only issue supplemental warrant upon town treasurer filing the verified statement provided for (Sec. 55), which must strictly conform to the statutory requirements.—Township of Port Huron v. Potts, 78 M. 435. Where township treasurer fails to make return of unpaid personal taxes, county treasurer's warrant is void and no action can be maintained by township to collect although regularly assessed and payment promised.—Bangor v. Transportation Co., 106 M. 223. Warrant is absolutely void where no verified return has been made to the county treasurer as required by Sec. 55.—Northwestern Cooperage and Lumber Co. v. Scott, 6 Det. Leg. News 1065.

Record and transcript of delinquent taxes.

SEC. 57. Am. Act 225 of 1897. (3880) When any county treasurer shall receive from a township treasurer a statement of unpaid taxes, together with a list of the lands on which the same are delinquent, verified according to law, such county treasurer shall enter the same at length on the books in his office, provided for that purpose, and he shall make a transcript of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been rejected by him, with the several taxes assessed upon such descriptions respectively, which transcript shall be compared by the county clerk with the statement of the county treasurer, and if the county clerk finds it to be a true transcript thereof, he shall add to it a certificate that he has, upon careful examination, found it correct. Such transcript, so made, compared and certified, shall be forwarded by the county treasurer to the Auditor General, by the first day of May next after the return of such statement; but such transcript shall be receivable at any time during said month of May, and the Auditor General is hereby authorized, when in his judgment it may be deemed expedient, to extend the time in which said transcript shall be returned to him.

Certificate of county clerk upon transcript.

Return to Auditor General.

County clerk not required to certify to township treasurer's returns to county treasurer, but to the accuracy of the county treasurer's transcript to the Auditor General.—Hunt v. Chapin, 42 M. 24.

In an action to charge county treasurer on his bond with failure of duty in not forwarding to the Auditor General lists of delinquent tax lands it is incumbent to show that the transcripts were not forwarded within a reasonable time after actual return to the treasurer by the collectors.—Supervisors of Houghton v. Rees, 34 M. 481. Mandamus will not be granted to compel Auditor General to receive transcript which is not forwarded within the statutory period. Whether or not Auditor General might in his discretion accept returns forwarded later there is nothing in the statute making it his duty to do so or conferring on the county the right to demand credit upon its account with the State for the amount of such belated returns.—Houghton County v. Auditor General, 36 M. 271.

County treasurer's transcript to Auditor General should not include any lands or taxes rejected by him (Sec. 55), nor any personal taxes. It should be forwarded as soon as is practicable after returned to him. At the same time he should return a transcript of all lands returned for village (corporation) taxes. There is no advantage in returning the latter before the regular returns are made.

All lands and all taxes thereon returned to the county treasurer (except those rejected by him as provided in Sec. 55) must be included in this transcript sent to the Auditor General, whether the taxes are paid before such transcript is forwarded or not.

County treasurer may receive taxes returned.

SEC. 58. (3881) After the return of lands for unpaid taxes the county treasurer is authorized to receive, under like provisions as in section fifty-three of this act, the amounts of the several taxes or any of them due, and the board of supervisors in each county may authorize notice to be given to all delinquent taxpayers so far as known. The county treasurer shall issue duplicate receipts for all such taxes received by him, which shall be countersigned by the county clerk, and one of such duplicates shall be left with said clerk, who shall make an entry of the amount for which every such receipt was given, with the name and postoffice address of the person paying such tax, in a book provided for that purpose, and shall on the first Monday of each month, forward all such receipts to the Auditor General, in such manner as he may direct.

Duplicate receipts.

County clerk to record.

Transmittal to Auditor General.

County clerks should never countersign duplicate receipts in advance, but must countersign them as issued and retain one at that time. There will then be no reason why all the duplicates for the month may not be promptly forwarded to the Auditor General after the close of each month. They should see that the postoffice address of the person paying is entered on both the receipt and the duplicate.

Section does not authorize payment to county treasurer under protest and recovery by suit against county. Payment to county treasurer under protest to secure certificate under Sec. 135 is not payment under duress and gives no common law right for recovery of amount paid.—Weston v. County of Luce, 102 M. 528.

Partial payment.

Interest and collection fee.

Lien for expenses.

SEC. 59. (3882) Am. Act 262 of 1899. Any person may pay the taxes or any one of the several taxes, on any parcel or description of land returned as aforesaid, or on any undivided share thereof, with interest computed thereon from the first day of March next after the same were assessed, at the rate of one per cent per month or fraction thereof, with four per cent as a collection fee, to the county treasurer of the county in which the lands are situated, at any time before they are sold: *Provided*, That on all descriptions of land on which any of the several taxes remain unpaid on the first day of October next preceding the time prescribed for the sale thereof, there shall be charged an additional one dollar for expenses and which shall thereafter be a lien on said land and when collected shall belong to the general fund of the State.

The charge for interest and expense provided for by Sec. 59 as amended by Act 262 of 1899 applies to all taxes unpaid and not merely to those assessed after the amendment.—Webster v. Auditor General, 6 Det. Leg. News 604.

As to penalty see Lacey v. Davis, 4 M. 140.

See Secs. 58, 117.

OF THE SALE, REDEMPTION AND CONVEYANCE OF DELINQUENT TAX LANDS.

Delinquent land subject to sale.

SEC. 60. (3883) All lands which have been or may hereafter be returned to the Auditor General as delinquent for taxes and upon which any taxes are now or shall hereafter remain unpaid, after their return to the Auditor General under

the provisions of this act, or to the several county treasurers of the State under the provisions of Act number 200 of the Public Acts of 1891, for the period of one year or more, shall be subject to disposition, sale and redemption for the enforcement and collection of such tax liens, in the method and manner as hereinafter provided. In the disposition and sale of such delinquent tax lands the people of the State of Michigan shall be deemed to have a valid lien upon such lands, with all the rights to enforce the same as a preferred or first claim upon such lands, and the rights and choses to enforce such lien shall be held and construed by all the courts of this State as the *prima facie* rights of the State, and shall not be set aside or annulled except in the manner and for the causes herein specified.

Right to enforce lien.

The act, though altering the time of sale and the period for redemption as to lands previously assessed, is not open to the objection that it violates the provision of the federal constitution (Sec. 10, Art I) that no state shall enact any law impairing the obligation of contracts, since proceedings for the collection of taxes are essentially in invitum, and do not presuppose the existence of any contract relation; nor does the act conflict with the provision of the state constitution (Sec. 32, Art. VI) that no person shall be deprived of his property without due process of law.—Muirhead v. Sands, 111 M. 487.

Proceedings to collect taxes are usually preceedings in rem. The fact that the statute authorizes these proceedings to be taken in a court of equity does not make them any the less proceedings in rem. The property alone is described in the petition. Every one knows that his land is subject to taxation; every one is presumed to know the law. If he fails to pay he must be held to know that proceedings will be taken to enforce these taxes against his land and not against him personally. If not paid he knows that his property will be advertised and sold under a decree in chancery, without reference or further notice to the owner of the land or to the person against whom it is or may be assessed.—Dumphy v. Hilton, 6 Det. Leg. News 432.

Section not inconsistent with Sec. 125.—Muirhead v. Sands, 111 M. 487. See Sec. 138.

OF THE NOTICE AND LISTS OF LANDS TO BE SOLD.

Petition for decree of sale.

SEC. 61. Am. Act 225 of 1897. (3884) Am. Act 262 of 1899. In sufficient time before the time fixed herein for the annual tax sale, the Auditor General shall prepare and file in the office of the county clerk in each county in which lands are to be sold under the provisions of this act, a petition addressed to the circuit court for said county in chancery, stating therein by apt reference to lists or schedules annexed thereto a description of all lands in such county upon which taxes have remained unpaid for more than one year after they were returned as delinquent, and the total amount of such taxes, with interest computed thereon to the first day of May following the filing of said petition, and a collection fee of four per cent extended separately against each parcel of land, and he shall include with and add to such total amount against each parcel, one dollar for expenses. Such petition shall pray a decree in favor of the State of Michigan against said land for the payment of the several amounts so specified therein, and in default thereof that such lands be sold. It shall be signed by the Auditor General and need not be otherwise verified, and shall be deemed equivalent to a bill in chancery to enforce the lien for such taxes, interest and charges, averring their validity, that they have not been paid, and praying for a sale to pay such lien.

Showing required.

Interest and charges.

Verification.

Lands heretofore or hereafter bid off in the name of the State and thus held, and on which taxes have been assessed subsequent to the tax for which such lands were sold and purchased by the State, shall be included in such petition for all such subsequent taxes which have remained unpaid for more than one year after they were returned as delinquent. The petition shall be in a substantial record book, with the lists of lands and taxes annexed following the same therein. Such record shall be ruled with appropriate columns, one containing a description of the lands, with columns for the total amount of taxes, interest and charges claimed due on each parcel of land opposite thereto; also with blank columns, one with heading: "Parts of descriptions paid before sale or withheld;" another, "By whom paid;" another, "Amount paid before sale;" another, "Amount decreed against lands;" another, "Special orders;" another, "Interest in each parcel sold;" another, "Name of purchaser;" another, "Address of purchaser;" another, "Number of certificate;" another, "Remarks." The Auditor General may add such other columns as he may find necessary. The word "petition" shall be construed to include the lists annexed thereto. Said record shall be called "Tax Record." Parts of descriptions of land upon which taxes are paid before sale, or which are withheld from sale, the amount paid on taxes before sale, the amount of taxes, interest and charges decreed against lands, special orders made by the court relating to any parcel of land or any tax, the interest in each parcel of land sold, the name of each purchaser and his address, and the number of certificate of sale shall be entered in said record under their appropriate headings, opposite to the description of lands affected thereby.

Unsold delinquent lands to be included.

Form of petition.

Tax Record.

Copy of petition found in county clerk's files cannot be considered as the original petition when the proper petition is in county treasurer's office.—Barnum v. Barnes, 118 M. 264. Where the petition is produced from the county treasurer's office and other papers including the order of publication, which order recites the fact of the filing of the petition are produced from the clerk's office it will be presumed that the petition was filed with the clerk and that the failure to mark it as filed was a clerical omission.—Mann v. Parsons, 6 Det. Leg. News 288.

SEC. 62. Am. Act 154 of 1895 and Act 225 of 1897. (3885) Am. Act 262 of 1899. It shall be the duty of the county clerk, on the filing of the said petition, to at once present the same to the circuit judge of the county in which said delinquent tax lands are situated, and it shall be the duty of said circuit judge to make an order in the form herein prescribed, which order, when so made and signed by the circuit judge, shall be countersigned by the county clerk as register in chancery, and recorded by him in the proper books of his office, and thereupon it shall be the duty of said county clerk to immediately make a true copy of said order, and transmit the same to the Auditor General. Said order shall be substantially in the following form:

Duty of circuit judge and county clerk.

Form of order of hearing.

STATE OF MICHIGAN, } ss.
County of..... ..... }

The circuit court for the county of.....
in chancery.

In the matter of the petition of....., Auditor General of the State of Michigan, for and in behalf of said State, for the sale of certain lands for taxes assessed thereon: On reading and filing the petition of the Auditor General of the State of Michigan, praying for a decree in favor of the State of Michigan, against each parcel of land therein described, for the amounts therein specified, claimed to be due for taxes, interest and charges on each such parcel of land, and that such lands be sold for the amounts so claimed by the State of Michigan. It is ordered that said petition will be brought on for hearing and decree at the.....term of this court, to be held at....., in the county of....., State of Michigan, on the..... day of.....A. D. 18...., at the opening of the court on that day, and that all persons interested in such lands or any part thereof, desiring to contest the lien claimed thereon by the State of Michigan, for such taxes, interest and charges, or any part thereof, shall appear in said court, and file with the clerk thereof, acting as register in chancery, their objections thereto, on or before the first day of the term of this court above mentioned, and that in default thereof the same will be taken as confessed and a decree will be taken and entered as prayed for in said petition. And it is further ordered that in pursuance of said decree the lands described in said petition for which a decree of sale shall be made, will be sold for the several taxes, interest and charges thereon as determined by such decree, on the first Tuesday in May thereafter, beginning at ten o'clock a. m., on said day, or on the day or days subsequent thereto, as may be necessary to complete the sale of said lands and of each and every parcel thereof, at the office of the county treasurer, or at such convenient place as shall be selected by him at the county seat of the county of....., State of Michigan; and that the sale then and there made will be a public sale, and each parcel described in the decree shall be separately exposed for sale for the total taxes, interest and charges, and the sale shall be made to the person paying the full amount charged against such parcel, and accepting a conveyance of the smallest undivided fee simple interest therein; or, if no person will pay the taxes and charges and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold. If any parcel of land cannot be sold for taxes, interest and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale, be reoffered, and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the State.

Witness the Hon. ....., circuit

judge, and the seal of said (circuit) court of .....
county, this ..... day of ..... A. D. 18....

.....
Circuit Judge.

Countersigned,

.....
Register.

The order of hearing is not required to be taken in open court and there is no reason why county clerks should wait for the court to convene before presenting the petition. The judges should be advised of the facts "at once" upon the filing of the petition. The filing of the petition and every order made should be promptly recorded in the chancery records. A certified copy of the order of hearing should be promptly forwarded to the Auditor General.

Court may make a valid order to take the place of a void one, providing the valid order is made in time and follows the requirements of the statute. —Haven v. Owen, 6 Det. Leg. News 293.

County clerk's sureties liable for his failure to enter and record all orders, etc., and to faithfully perform the duties imposed upon him by law.—2571 C. L. '97.

Hearing must be at a term of court subsequent to that in which petition is filed, and when fixed for the same term no jurisdiction is acquired to enter decree.—Ledyard v. Auditor General, 6 Det. Leg. News 278. But may be at a special term held subsequent to filing of petition.—See Roberts v. Loxley, 6 Det. Leg. News 286.

Statutory notice as to place of sale sufficient.—Clark v. Moyer, 5 M. 462; Wisner v. Davenport, 5 M. 501. Statutory form of order of hearing sufficient. Waldron v. Auditor General, 109 M. 231. If at the time of filing the petition the county treasurer has any proper reason for selecting a place of sale at the county seat other than his office the judge should be so advised, and in such case the name of the place selected may be substituted in order of hearing for the words "at the office of the county treasurer," but if this is done the words "or at such convenient place, etc.," shold not be stricken out.

Auditor General to designate newspapers.

SEC. 63. Am. Act 225 of 1897. (3886.) The newspapers in which such order and petition are to be published shall be designated by the Auditor General on or before the first day of September in each and every year, and not afterwards, unless the publisher of the paper so designated shall fail to accept such designation within fifteen days after the same is made, or shall refuse or neglect to publish and print such order and petition, or unless, from any other cause, such publication shall become impracticable; in which case the Auditor General shall designate some other paper for that purpose before the time limited for commencing such publication: *Provided*, That in counties where one or more newspapers have been printed and published more than one year prior to such designation [of] one of such papers shall be designated for the publication herein required.

Proviso.

No provision for any record of the designation.—Waldron v. Auditor General, 109 M. 231. The fact that neither the notice nor the affidavit of publication show affirmatively that Auditor General designated paper cannot be urged as objection to jurisdiction. Statute requires neither. When petition is signed by Auditor General it will be presumed that he authorized publication where it appears.—Watts v. Bublitz, 99 M. 586.

The regularity of tax proceedings is not affected by the fact that the order of the Auditor General, designating the newspaper in which the proceedings should be published, is made prior to the time that the petition is filed.—Wilkin v. Keith, 6 Det. Leg. News 305.

As to power of revocation of designation see Featherly v. Auditor General, Mich. Mandamus Cases, 1027; Brown v. Auditor General, Mich. Mandamus Cases, 1028.

Publication in certain events.

SEC. 64. (3887) In case there is no paper published in such county, or if from any cause no paper can be secured in any county to publish such order and petition, the Au-

ditor General shall cause such order and petition containing the list of lands delinquent for taxes to be printed in proper form for general distribution, and shall furnish the county treasurer with such number of the same as may be necessary to furnish each voter at the last general election in said county with one copy, and such county treasurer shall distribute the order and petition in such manner that copies thereof may become public in every township in said county, and shall post or cause to be posted three copies in three public places in each township, and shall file affidavit of the posting and distribution of the same in the usual form in the office of said county treasurer and of the Auditor General.

County treasurer to distribute.

Proof of distribution.

Public places—what deemed.—People v. LaGrange, 2 M. 187. Affidavit should show where posted.—People v. Commissioners of Nankin, 14 M. 528.

Cost of advertising.

SEC. 65. (3888) The cost of such advertising shall in no case exceed the sum of forty cents for each description of land so advertised and sold, and shall be paid by the State Treasurer, upon the warrant of the Auditor General, out of the general fund of the State.

Publication of order and petition.

SEC. 66. Am. Act 162 of 1895. (3889) Am. Act 31 of 1899 and Act 264 of 1899. The Auditor General shall cause a copy of said order and a copy of said petition to be published at least once in each week for four successive weeks next prior to the time fixed for the hearing thereof, in some newspaper published and circulating in the county where such petition is filed, to be selected by the Auditor General. Said order and petition shall both be published in the same newspaper, the order immediately preceding the petition: *Provided*, In such petition it shall be sufficient to print against each parcel the "amount of taxes," "interest," "charges," "total," due on each. The cost of such publication shall be paid by the State on the warrant of the Auditor General. The proprietor of such paper shall furnish the proper county treasurer and Auditor General each with two copies of each issue containing such publication, and it shall be the duty of such Auditor General and treasurer to carefully examine the notices published and see that they are correct. Any person familiar with the facts may make an affidavit as to the publication required. The Auditor General shall not pay for any such publication until satisfied that it has been made according to law. The publication of the order and petition aforesaid shall be equivalent to a personal service of notice on all persons who are interested in the lands specified in such petition, of the filing thereof, of all proceedings thereon and on the sale of the lands under the decree, and shall give the court jurisdiction to hear such petition, determine all questions arising thereon, and to decree a sale of such lands for the payment of all taxes, interest and charges thereon. The circuit court in chancery shall have jurisdiction to hear, try and determine the matters alleged in such petition, even though the amount involved therein be less than one hundred dollars. It shall be the duty of the prosecuting attorney to prosecute all

Copies of publication.

Publication equivalent to personal notice.

Jurisdiction of circuit court.

Prosecuting attorney to prosecute.

such proceedings on the part of the State. If he shall refuse, neglect or be unable to do so, the court shall appoint some competent person to take charge of and prosecute the same, who shall be paid by the county. The board of supervisors may employ some competent person to prosecute such proceedings or assist therein. Proof of the publication of the order and petition herein required shall be filed in the office of the county clerk before any final order is made. Any person having any interest in the lands or any portion thereof included or referred to in said petition desiring to contest the validity of any tax shall file in writing his objections thereto with the clerk of the county in which said lands are advertised for sale and serve a copy thereof on the prosecuting attorney of the county, on or before the day fixed in said notice for the hearing of such petition, and shall not be allowed to make any objections not therein specified. If on the day fixed in such notice for the hearing of such petition or on the day following that day, it shall be made to appear to the court that any person has been prevented from filing his objections to any tax without any fault on his part, such further time may be granted for that purpose as may seem proper, not exceeding five days. The court shall give precedence to the hearing of such petition over all other business, shall examine, consider and determine the matters therein stated and objections made, in a summary manner without other pleadings, and make final decree thereon as the right of the case may be. The taxes specified in the petition shall be presumed to be legal and a decree be made therefor unless the contrary is proved. Evidence shall be taken in open court. All oral testimony shall, at the request of any person interested, be written down and filed. The court may make such orders from time to time as may be necessary to facilitate the proceedings, and shall decide all questions as to the admissibility of evidence, and the decisions so made shall be final and not subject to review or appeal. If the lands of two or more persons have been assessed together, the court may, if practicable, separate the same and apportion to each parcel its just proportion of the taxes, interest and charges. If any tax shall be found illegal, such part shall be set aside and the remaining tax shall be decreed valid. The total amount of taxes, interest and charges, as fixed by the court, shall be entered by the register of the court opposite each parcel of land in the column of said record under the heading "Amount decreed against lands." If the court shall make any order setting aside the taxes on any parcel of land, or any part thereof, or any special order relating to any particular parcel of land, or taxes thereon, a brief entry of such order shall be made upon said record opposite such land or tax, which shall be signed by the judge of the court, either by his full name or initials, and such entry shall have the same effect as if made and entered as a part of a final decree. At least ten days prior to the time fixed for the sale of such lands, the court shall make a final decree in favor of the State

Filing of proof of publication.

Contested taxes.

Notice of contest to be served on prosecuting attorney.

Granting further time.

Hearing to have precedence.

Evidence.

Court orders and decisions.

Separation and rejection of taxes.

Register to enter amounts decreed.

Entry and signing of special orders in Tax Record.

Final decree.

of Michigan for such taxes, interest and charges as shall be valid, and determine the total amount thereof chargeable against each parcel of land, and shall order and decree that such several parcels of land, or so much of each as may be necessary to satisfy the amount fixed by such decree, shall severally be sold as the law directs. Such decree shall be considered as a several decree in favor of the State of Michigan against each parcel of land for each tax included therein. The court may decree such costs against a person contesting any tax as may be equitable, if the tax, or any part thereof which remains unpaid be adjudged valid.

Decree in severally.

Costs may be decreed.

PUBLICATION: All writs, processes, proceedings and records in any court within the State shall be in the English language.—1115 C. L. '97; Sec. 6, Art. XVIII, Constitution. Whenever the law provides for a publication in a newspaper it means one published in the English language.—Auditor General v. Hutchinson, 113 M. 245. Publication of order and petition must be in newspaper published in the English language.—Visscher v. Ottawa Circuit Judge, 116 M. 666. In Schaale v. Wasey, 70 M. 414, held that publication of notice of guardian's sale published in English language, but in a German paper was not a proper publication under our laws.

"Four successive weeks" requires that full interval between the first notice and the sale.—Bacon v. Kennedy, 56 M. 329; Gantz v. Toles, 40 M. 725. Publication must be in successive issues without omission.—Mills v. City of Detroit, 95 M. 422. A statutory foreclosure is not invalidated by certain changes in the paper in which the advertisement is published.—Perkins v. Keller, 43 M. 53. Dollar mark on advertised list not requisite to validity of decree.—Muirhead v. Sands, 111 M. 487. But must be printed therein to comply with Auditor General's instructions in order to entitle publisher to payment. Auditor General having designated "Muskegon Chronicle" (there being Muskegon Daily Chronicle and Muskegon Weekly Chronicle) and publication being made in Muskegon Weekly Chronicle and treated by Auditor General as a compliance with his designation, held that it was a sufficient and legal publication.—Waldron v. Auditor General, 109 M. 221. Publication in supplement sufficient.—Mann v. Carson, 6 Det. Leg. News 258; Wilkin v. Keith, 6 Det. Leg. News 305.

PROOF OF PUBLICATION: Affidavit prima facie evidence.—10165 C. L. '97. Proof should not be sworn to before prosecuting attorney or any other attorney who is engaged in the proceeding. See 2640 C. L. '97. Copy of advertisement must be identical with the one published.—Wilkinson v. Conaty, 65 M. 614. Proof of publication authorized by statute is not exclusive of any other.—Schlee v. Darrow Estate, 65 M. 362. Original proof of publication being erroneous, second affidavit and testimony of publisher held admissible but not conclusive.—Wyman v. Baer, 46 M. 418. Proof of publication held to be sufficient where prior to the entry of decree a second affidavit was filed to correct supposed defects in the first and both affidavits taken together conformed to the requirements of the statute.—Nester v. Church, 6 Det. Leg. News 284.

Files competent evidence of publication.—Colton v. Rupert, 60 M. 318. But can only be corroborative where statute provides what proof shall be filed.

Affidavit need not recite that affiant is familiar with the facts.—Muirhead v. Sands, 111 M. 487. Proof of publication properly sworn to though not signed by affiant held valid. Failure to recite that newspaper is published in county not fatal; it can be supplied by reference to Auditor General's certificate of designation.—Wynkoop v. Grand Traverse Circuit Judge, 113 M. 381. Where there was no record showing filing of proof of publication and no proof found in clerk's office, publisher testified that statutory publication was made and proof thereof filed; held that this did not show that any sufficient proof was filed and that the provisions of Sec. 99, "no tax or sale * shall be held invalid by showing that any * affidavit, paper * cannot be found in the proper office" does not apply to proof of publication.—Benedict v. Auditor General, 104 M. 269. When proof of publication has been duly filed with the register the fact that he attached it to the Tax Record does not render the proceedings void.—Brooks v. Roche, 5 Det. Leg. News 811. Affidavit reciting publication once in each week commencing September 23d and terminating October 21st held sufficient.—Garner v. Wallace, 118 M. 387.

Affidavit showing publication for "four successive weeks first, etc.," held insufficient, it not showing publication for four consecutive weeks next prior to hearing.—McFadden v. Brady, 6 Det Leg. News 283. Defect in affidavit of publication cannot be supplied by parol testimony.—Ibid. Where proof conforms to statute, it will not be held invalid because it calls the copies of the order and petition a notice when the papers attached clearly show compliance with the statute.—Spaulding v. O'Connor, 5 Det. Leg. News 697. But where no paper is found attached to the affidavit, but in the files with the affidavit are found a printed copy of the petition, a list of the

delinquent land and a copy of the order of hearing printed on what purported to be a supplement to the newspaper making the affidavit, it will be presumed that the papers were originally attached and held that there was proper proof of publication.—Mann v. Carson, 6 Det. Leg. News 288.

In Auditor General v. Circuit Judge, Mich. Mandamus Cases 634, objection was made that the paper in which publication had been made was not a newspaper published in the county, within the statute. It appeared that the newspaper was published as the "Roscommon Democrat;" that its office was in that county, and that the papers printed elsewhere, came to the office in bulk and were addressed and distributed through the post office of that place. Mandamus was granted to compel respondent to hear and determine the amount due for taxes on certain lands and enter decree therefor.

The full order and petition as published, including list of lands and taxes, must be securely affixed to the affidavit of publication before the affidavit is signed and sworn to. No other part of the paper in which publication is made should be affixed to the affidavit. Care should be taken to file the affidavit and the advertisement affixed thereto in such form that they may be folded and placed in the files without the possibility of their being detached or mutilated therein or when taken therefrom. In Featherly v. Hoffman, 117 M. 42, the files showing an incomplete advertisement affixed to affidavit of publication (the list of lands and taxes was missing), the court vacated the decree and set aside sale made thereunder. So also in Vliet v. Hoffman, 117 M. 255.

Further as to proof of publication see Woods v. Monroe, 17 M. 238; Perrine v. Fetters, 35 M. 233; Gillett v. Needham, 37 M. 143; Dexter v. Cranston, 41 M. 448; Snyder v. Hemmingway, 47 M. 549; National Bank v. Fonda, 65 M. 533; Feustmann v. Estate of Gott, 65 M. 592; Horton v. Monroe, 98 M. 195; Dodsley v. Probate Judge, Mich. Mandamus Cases 664.

JURISDICTION: The first requisite to adjudication of validity of taxes before sale is jurisdiction.—Taylor v. Deveaux, 100 M. 581. Publication of order and petition (properly proven) gives court jurisdiction to enter decree for sale.—In re. Petition of Wiley, 89 M. 58. Failure to enter an order pro confesso before decree, is a mere irregularity.—Jenkinson v. Auditor General, 104 M. 34; and does not make sale void.—Hooker v. Bond, 118 M. 255. The act does not require personal service of order of hearing.—Muirhead v. Sands, 111 M. 487. This section not unconstitutional because of failure to provide for personal service.—Ball v. Ridge Copper Co., 118 M. 7; Youngs v. Peters, 118 M. 45.

NOTICE: A tax sale will not be set aside in equity because the owner, a non-resident, had no actual notice of the proceedings and supposed that the tax had been paid by one to whom he had sold the land by contract requiring the vendee to pay the taxes.—Hall v. Mann, 118 M. 201.

PROSECUTION: Prosecuting attorney shall prosecute or defend in all suits, applications and motions in which the State or county may be a party, or interested.—2556 C. L. '97. In Latimer v. Circuit Judge, Mich. Mandamus Cases 555, mandamus to strike from the files a petition filed by the Auditor General for a re-hearing, for the reason that the Auditor General and the counsel employed by the City of Muskegon appeared for petitioner upon such application to the exclusion of the prosecuting attorney was denied. State not liable for costs in case of decision in favor of tax-payer contesting the sale.—Auditor General v. Baker, 84 M. 113.

Whether objections go to the validity of the law or of the proceedings taken under it, they must be made and filed in writing on or before the day fixed for the hearing, and no objections not so stated and filed, can be allowed. The statute does not contemplate any mere dilatory pleading. The objection that the petition does not state the fact that a sale of the lands described therein has not been made is without force. The form of petition is sufficient if it contains the facts necessary to be stated as prescribed by the statute. The law is not unconstitutional for the reason that it provides for advertising a sale of lands for unpaid taxes before obtaining decree therefor, or that it cuts off the common law right of trial by jury or that it makes the decision of the circuit judge as to the exclusion or admission of evidence final.—See Auditor General v. Sloman, 84 M. 118; State Tax Law Cases, 54 M. 350.

Not ground for setting aside decree of sale that there was not sufficient time between final publication and time fixed for hearing for non-resident land owner to reach a place of trial from his place of residence.—Waldron v. Auditor General, 109 M. 231. Decree void as to those who did not appear or waive the right for further time where the court entered decree on the day following the day fixed for appearance and adjourned the term, it being held that this was in violation of the provisions of this section.—Peninsular Savings Bank v. Ward, 118 M. 87.

Full statutory time for objections must be given. See notes to Sec. 139. All cases relative to the five days required by the section before amendment are equally applicable to the two days under the amended section.

Objections must set forth descriptions, and if only part of the taxes are claimed to be illegal, such information should be furnished the court as to enable it to separate the legal from the illegal. See Conway v. Township Board, 15 M. 257.

In Richmond v. Circuit Judge, Mich. Mandamus Cases 557, mandamus to vacate order striking relator's objections from the files because copy was not served upon the prosecuting attorney ten days prior to the commencement of the term was denied. This and the following were before amendment providing that objections may be served on prosecuting attorney on or before day of hearing.

In Walsh v. Circuit Judge, Mich. Mandamus Cases 554, an order to show cause why an order of the circuit judge overruling prosecuting attorney's objections to the consideration of the defendant's answer on the ground that no copy of answer had been served on relator ten days prior to the first day of term should not be set aside, and also to set aside an order dismissing the proceedings because the order of hearing published lacked the seal of the court and because there were no dollar marks at the head of the columns of the published lists, was denied, it appearing that the circuit judge held the objections made to the proceedings good "for the purpose of having the determination by the supreme court." The court held that the circuit judge should have passed upon each of the points raised upon its merits; that the questions were more properly reviewable on appeal, and that the supreme court does not feel called upon to review questions arising during the course of a proceeding, at least until the final judgment of the court below has been given after full consideration.

In Johnson v. Circuit Judge, Mich. Mandamus Cases 702, order to show cause why mandamus should not issue to vacate order holding that in the answer to a petition there are no specific allegations sufficient to raise an issue was denied. In Auditor General v. Circuit Judge, Mich. Mandamus Cases 718, mandamus to compel respondent to vacate an order setting aside assessment against certain lands for certain taxes was denied, it appearing that the order was made upon its being shown that there was no proper record of equalization and because of other invalidity in the assessment.

HEARING: A mere mistake of judgment of the assessing officer is not reviewable.—Peninsula Iron Co. v. Crystal Falls, 60 M. 79. Title of de facto officer cannot be tried in hearing of petition for decree.—Auditor General v. Longyear, 110 M. 223. In hearing on petition for decree the allowance of an amendment to objections filed specifying objections more in detail is within the discretion of the court and will not be reviewed.—Auditor General v. Chandler, 108 M. 569. Petition is filed against the lands and no personal decree can be entered against the tax-payer (except for costs against the person contesting; see last part this section). Answer of fraud to petition filed must specify the acts claimed to be fraudulent and whether of supervisor or board of review. Excessive assessment is not sufficient evidence of fraudulent or corrupt conduct on the part of the assessor or board of review.—Auditor General v. Stiles, 83 M. 460. The absolute illegality of a tax may be shown in proceedings to enforce it and it cannot be cured by proof that if the valuation had been correct the tax would have been legal.—Blanchard v. Powers, 42 M. 619.

Where a tax-payer fails to appear before board of review he is bound by the assessment as made and cannot in the absence of fraud be heard to complain.—Smith v. Carlow, 114 M. 67. One who allows work of extending drain to go on with full knowledge that he is to be assessed therefor and that it must be paid for by an assessment for benefits, is estopped from restraining the collection of the tax.—Atwell v. Barnes, 109 M. 10. Owner who, having full knowledge personally and through his agent that a street improvement is to be made and that his lands are to be assessed therefor, allows the improvement to be completed and the contractor to be paid out of the proceeds of the bonds issued by the city in anticipation of the collection of the assessment without making any objection thereto, cannot thereafter maintain a bill to restrain the collection of the assessment on the ground of irregularities therein.—Fitzhugh v. City of Bay City, 109 M. 589.

Property owner having knowledge of proceedings in matter of special assessment cannot maintain an action in equity to set them aside after half the tax for the improvement has been paid and a large part of the work been done.—Moore v. McIntyre, 110 M. 227.

Where one had joined in releasing right of way, had bid for part of the work and did not file his bill until all but himself and another had paid the tax, his bill to enjoin the collection was dismissed for laches.—Harwood v. Drain Commissioner, 51 M. 639. The collection of a paving tax will not be enjoined where the complainants have allowed the contractor to go on with the work without asking for relief and have reaped the benefit, with full knowledge that their lands were so situated that any assessment therefor would include said lands.—Lundbom v. City of Manistee, 93 M. 170. Land owners after standing by and permitting the construction of a drain without taking any steps to test the validity of the proceedings are estopped from thereafter denying the regularity of the proceedings.—Township of Walker v. Thomas, 6 Det. Leg. News 1041.

In the absence of express charter provision for the entry of estimate on the record of common council, courts will not for the purpose of invalidating a municipal tax assume that no estimates were made from the fact that no entry thereof appears on the record.—Auditor General v. Hutchinson, 113 M. 245. A conveyance of land to trustees to secure an indebtedness is only a mortgage and does not preclude the owner from claiming the title in fee and seeking relief against an illegal tax.—F. & P. M. Railway Company v. Auditor General, 41 M. 635.

A purely statutory lien must conform exactly to the statutory conditions; but when it once attaches and is put in process of foreclosure the proceedings, while in part definitely fixed, are nevertheless in important particulars left to the general course of practice. No construction should be strained at in order to defeat them, but the rights of all parties should be harmonized and respected as far as is reasonably practical.—Sheridan v. Cameron, 65 M. 680.

Questions arising during trial will not be reviewed on mandamus where decision of circuit court was made for sole purpose of obtaining ruling by Supreme Court.—Walsh v. St. Clair Circuit Judge, 107 M. 26.

Auditor General's petition and proof of publication confer jurisdiction to enter decree.—Conley v. McMillan, 6 Det. Leg. News 317.

Where the limit of a legal assessment on one's property is fixed and ascertainable, one who resorts to equity to restrain the sale of his land for a tax of which he does not dispute the legality of certain items cannot object to the whole tax on the ground that there is no provision for distinguishing between what is legal and what is not, but must offer to pay what might have been legally assessed. One who seeks to restrain the enforcement of an excessive tax without tendering what he ought equitably to pay is liable for costs; but if he concedes a certain amount to be legal and offers to pay it, his bill ought not to be dismissed, as he has a right to the judgment of the court as to the remainder of the tax.—Connors v. Detroit, 41 M. 128. Where objections alleging illegality of certain taxes did not show how much was admittedly legal and how much alleged to be illegal, or set forth any facts from which the court could make the separation, held that the collection of a legal tax would not be enjoined in order to reach an illegal one under those circumstances. Whenever party concedes that a portion of his taxes are just, but disputes another portion, he is not entitled to the interference of equity to stay the execution of process unless he pays or offers to pay the legal part.—Palmer v. Township of Napoleon, 16 M. 176.

The law contemplates and provides for collection of both general and special taxes by chancery proceedings under the law. The burden is upon the owner to show the illegality of the tax, the presumption being in favor of its validity.—See Auditor General v. Maier, 95 M. 127; Auditor General v. Smith, 95 M. 132. On petition for decree, when court finds no lawful equalization, the decree should reject only that part of the tax subject to and dependent upon equalization and should not apply to township, school or other taxes not affected by failure of equalization.—Auditor General v. Gurney, 109 M. 472. It is permissible to assess platted lots together in certain cases and decree entered as against one parcel is a determination of the legality of the proceedings.—Kneeland v. Hull, 116 M. 55.

FINAL DECREE: Failure to make final decree 10 days prior to the time fixed for sale will not render decree and sale void, defect being cured by Section 99.—Hooker v. Bond, 118 M. 255. The provision is directory.—Barnum v. Barnes, 118 M. 264.

All questions as to the validity of a tax upon lands are foreclosed by a valid decree for the sale of the lands for non-payment of the taxes.—Hall v. Mann, 118 M. 201; Spaulding v. O'Connor, 5 Det. Leg. News 697. Questions affecting proceedings anterior to the decree are cut off by the decree.—Wilkin v. Keith, 6 Det. Leg. News 305.

Decree properly signed and countersigned, entered in chancery record with date of filing appended, but no decree found in files and no calendar entry of decree. Held, sale thereunder not invalidated by omission in filing and calendar entry.—Spaulding v. O'Connor, 5 Det. Leg. News 697.

Proceedings under a void decree would not affect subsequent regular proceedings.—Wilkin v. Keith, 6 Det. Leg. News 305. Prior decree setting aside the taxes may be relied on in cases where lands are included in decree of sale by reason of former decree not having been reported to Auditor General.—Thomas v. Moore, 6 Det. Leg. News 265.

ENTRY OF AMOUNTS DECREED: Failure of register to carry out in Tax Record under the head "Amount decreed against land," the amount fixed by the court renders decree void which was entered before the blank was filled.—Morgan v. Tweedle, 5 Det. Leg. News 820. Filling in the Tax Record the amounts decreed against the land after the signing of decree and by an employe in the county treasurer's office renders subsequent sale and tax title void.—First Baptist Church v. Roberts, 6 Det. Leg. News 369. The validity of a tax deed may be attacked in a collateral proceeding by showing that the decree was void in failing to show an adjudication of any sum of money against the land.—Case v. Skinner, 6 Det. Leg. News 409.

The entry in the Tax Record of the amounts decreed against the several descriptions is to be made by the county clerk and this should be done as soon as the court determines the several amounts. At the time of making any special orders, such orders must be entered in the Tax Record and signed or initialed severally by the judge.

See Secs. 67, 70, 99.

SEC. 67. (3890) Am. Act 262 of 1899. Such final decree shall be entered in the chancery record for recording decrees of such court, have the usual caption for decrees, and shall be substantially in the following form: Record of decree.

Form.

"STATE OF MICHIGAN,
The Circuit Court for the County of.....} In Chancery.

At a session of said court held at the court house in the .....of.....on the.....day of.....A. D. 18....

Present: Hon.....Circuit Judge.

In the matter of the petition of....., Auditor General of the State of Michigan, for and in behalf of said State, for the sale of certain lands for taxes assessed thereon:

The said petition and the matters therein stated, and the objections filed to certain taxes therein claimed (if any such objections are filed) came on to be heard, and proof of the due publication of the order of hearing, and of said petition having been made and filed, and after hearing all parties interested therein: It is ordered, adjudged and decreed that the amount of taxes, interest, collection fee, and charges set down in the column headed 'Amount decreed against lands,' in the Tax Record of which said petition forms a part, are valid, and decree is made in favor of the State of Michigan therefor against each parcel of said land for the amount set down in said column opposite to such parcel. It is further ordered, adjudged and decreed that said several parcels of land, or such interest therein as may be necessary to satisfy the amount herein decreed against the same, shall be severally sold as the law directs, on the.....day of May, A. D. 18.... beginning at ten o'clock a. m. on said day, or on the day or days subsequent thereto as may be necessary to complete the sale of said lands and of each and every parcel thereof, at the office of the county treasurer, or at such convenient place as shall be selected by him at the county seat of the county of..... State of Michigan. It is further adjudged and decreed that the several special orders made by this court, and entered on said Tax Record, are made a part hereof, with the same effect as if entered herein.

.....
Circuit Judge.

(Countersigned)

.....Register in Chancery."

Execution for costs.

Judge and clerk to sign decree.

Copy of decree annexed to Tax Record.

Tax Record, where kept.

Continuance of hearing.

If costs are adjudged against any person contesting a tax, the decree therefor shall be in proper form and execution awarded. The decree shall be signed by the judge and countersigned by the clerk. Immediately after the entry of such decree, the county clerk shall make a certified copy thereof, and annex the same to the tax record. He shall thereupon deliver such tax record to the county treasurer, in whose office the same shall remain, except as needed in the office of the county clerk. If from any cause the hearing on said petition is not had on the day fixed in the notice therefor, the same shall stand continued from day to day during the term without the entry of any order of continuance, until disposed of, and if it shall for any reason be found impracticable to hear and determine the objections to all of the taxes specified in such petition within

the time herein fixed for that purpose, then and in that case the court shall, within the time herein named, make a final decree as to all taxes to which no objections have been filed, and also those to which objections have been filed, which the court has then heard and passed upon. Such decrees shall be signed and recorded as herein before provided. The court shall proceed with the consideration of the remaining taxes embraced in such petition, and objections thereto, and as soon as practicable dispose of the same by one or more decrees and in such form as the court may determine, which shall be entered in the chancery record of decrees of such court, and the same shall describe the lands and specify the total amount of taxes, interest and charges on each parcel thereof. The county clerk shall immediately thereafter deliver to the county treasurer a certified copy of such decree, to be kept and used as herein-before provided. Such copy of decree shall be annexed to the Tax Record and shall thereby become a part thereof. If from any cause no decree shall be made on such petition as to the taxes therein named, or any part thereof, the Auditor General shall, as soon as practicable, file a new petition for decree and sale, and proceedings thereon shall be the same and a decree and sale made as herein provided.

Final decree.

Supplemental decrees.

Copy of decrees to be annexed to Tax Record.

In case a decree is given in favor of the validity of any disputed tax, and the person contesting its validity desires to appeal to the supreme court, he shall be allowed to do so on paying the amount of the decree to the county treasurer, within ten days after the date of such decree, who shall retain the same until the decision of the supreme court, and pay the same to the party interested, if such tax is held invalid; if held valid, then such money shall be credited to the proper fund. By such payment the land in question shall be discharged from the lien of the tax. In case the decision is against the validity of any tax, either the county treasurer or the Auditor General shall have a right to direct an appeal therefrom to the supreme court on behalf of the State, but there shall be no sale for the tax held invalid, until such decision has been reversed or modified by the supreme court.

Appeal of contestant.

Payment condition precedent.

Appeal of Auditor General or county treasurer.

The proceedings where the validity of any tax is in dispute shall, where no other provision is made herein, follow the ordinary chancery practice, and the court may allow amendments as in ordinary cases. Notice shall be given of all appeals to the supreme court, and such appeal shall be claimed, entered and bond for costs given, within twenty days after the making and entering of the decree. When the appeal is taken in behalf of the State, no bond shall be required. The judge shall, at the request of either party and on due notice, settle in proper form a case containing so much of the record and proceedings as may be necessary to the due understanding thereof by the supreme court, and if appeal shall be taken, such case shall be transmitted to such court. An appeal as to the tax on any parcel shall not delay or affect the proceedings for the sale of any land on which there has been no appeal.

Chancery practice.

Bond on appeal.

Settlement of record on appeal.

DECREE: Surplusage in entitling does not invalidate decree.—Muirhead v. Sands, 111 M. 487. Where statutory decree is signed by judge, countersigned by clerk and entered in chancery record, the statute in that regard is fully satisfied.—Jenkinson v. Auditor General, 104 M. 34. The questions whether there is a tax due, whether it was properly assessed, and whether proper steps have been taken to charge the land after assessment, are concluded by the decree.—Muirhead v. Sands, 111 M. 487. Questions as to validity of tax and regularity of assessment and levy are foreclosed by decree.—Ball v. Ridge Copper Co., 118 M. 7. Objection that no certified copy of decree was affixed to Tax Record will not be considered first on appeal.—Hooker v. Bond, 118 M. 255. Decree need not repeat descriptions, the Tax Record being part thereof.—Barnum v. Barnes, 118 M. 264. Omission in Tax Record of dollar mark or any word or sign to show what figures in decree mean is fatal to sale thereunder.—Millard v. Truax, 99 M. 157.

CONTINUANCE: Continuance beyond the term can only be by an order duly made and entered, and failing to so make and enter order the court loses its jurisdiction until a new petition is filed.—Muirhead v. Bergland, 111 M. 655. Continuance as to particular descriptions, and to a date subsequent to the sale, makes sale impracticable until the next annual sale. For this reason it is very generally desirable that, if the order sustains the tax it provide that if payment is not made before the next petition is filed it be included therein and decree of sale taken when that petition is heard.

TAX RECORD, ETC.: County treasurer's office shall be at the county seat.—Sec. 4, Art. X, Const.; 2547 C. L. '97. See Rice v. Shay, 43 M. 280. "County clerk" and "register" interchangeable terms and mean the same officer. Provision as to Tax Record being in county treasurer's office is not unconstitutional. The court can re-possess itself of Tax Record at will. That the Tax Record is to be delivered to the county treasurer, etc., does not render the act unconstitutional as relieving the court from the necessity of entering a complete decree to be retained in its own custody, since the court may at any time repossess itself of the Tax Record.—Mersereau v. Miller, 112 M. 103.

When the Tax Record is delivered to the county treasurer he should see that it contains certified copy of the decree of sale and that the county clerk has entered in the proper columns the several amounts decreed and all special orders of the court.

Neither the original decree, the affidavit of publication, nor any other paper belonging in the county clerk's office can be filed in the Tax Record. They must be retained by the clerk.

No county, city or township books, records or files shall be removed from the office of the custodian thereof without an order of the judge, etc.—Act 92 of 1899.

APPEAL: Appeal from decree in tax proceedings is properly dismissed for failure to comply with the usual rules of equity practice.—Carney v. Baldwin, 95 M. 442. Where owner contesting a tax in proceedings for enforcement fails to raise the objection that two contiguous parcels should have been assessed separately, he is estopped from such objection on appeal granted in such case.—Auditor General v. Maier, 95 M. 127. In Lange v. Circuit Judge, Mich. Mandamus Cases 922, order to show cause why mandamus should not issue to vacate an order granting a re-hearing after the time for appeal had elapsed, where the petition for re-hearing was without the certificate of counsel as required by Rule No. 81 and the court at the hearing thereof allowed such certificate to be filed nunc pro tunc, and where such certificate is that of the counsel who appeared for the petitioner, was denied.

A point not raised below will not be considered for the first time on appeal.—City of Menominee v. S. K. Martin Lumber Co. 5 Det. Leg. News 771. On an appeal to review the legality of a tax assessment paid under protest only the ground mentioned in the protest will be considered.—Aurora Iron and Mining Co. v. City of Ironwood, 5 Det. Leg. News 828. The Supreme Court will not reverse an order or decree in chancery for a mere irregularity not affecting injuriously appellant's interests.—Kellogg v. Putnam, 11 M. 344.

Where payment of the taxes is made on appeal as provided in this section the county treasurer is not to make duplicate tax receipt for the taxes until the appeal is decided, but may give the payer a receipt for the amount. If the taxes are finally sustained he should then make duplicate receipts in the usual form, under date of the original payment, taking up the receipt first given and sending the regular duplicate to the Auditor General at once.

ENROLLMENT: Sec. 463-4 C. L. '97. Exact compliance with the rule for enrollment is impossible, but a certified copy of the printed petition, including the list of lands and taxes, may be used in lieu of the original petition (the Tax Record). In this way it would appear to be practicable to enroll the case, and this should be done as soon as the files are complete, including the report of sale, the order of hearing, the proof of publication and the decree or decrees made by the court.

Tax sale is not rendered void by non-enrollment of decree before sale, the general statute not being applicable to the tax proceedings.—Youngs v. Peters, 118 M. 45; Hall v. Mann, 118 M. 201; Hooker v. Bond, 118 M. 255; Barnum v. Barnes, 118 M. 264; Shefferly v. Auditor General, 6 Det. Leg. News 240. But court may amend decree after the term at which it was entered before enrollment, and no bill of review is necessary in such case.—First Baptist Church v. Roberts, 6 Det. Leg. News 364.

See Secs. 66, 70, 99, 100.

SEC. 68. (3891) If for any reason the treasurer of any county shall fail to offer the lands lying therein and included in the decree for sale for delinquent taxes thereon, then so many of such lands so included in such decree as shall not be so offered for sale, shall be considered and treated as if bid off to the State by the county treasurer, and shall be subject to redemption and sale in the same manner and within the same time as may be provided by law in the case of lands actually bid off for the State as provided in this act. All lands bid off for the State as provided in this section shall continue liable to be taxed in the same manner as if not held as belonging to the State, and all such taxes shall be a charge and lien upon such lands as in case of other tax lands, except as hereinafter provided. State bids. State tax lands taxable.

Lands acquired by state under this section may be sold under Section 84.—Mann v. Carson, 6 Det. Leg. News 288.
If the Auditor General's instructions for the sale are carefully observed there will be no lands that are not sold individuals or bid to the state before the sale is closed.

SEC. 69. (3892) Whenever it shall be satisfactorily shown to the court that any lands included in such petition as delinquent for taxes shall belong to infants, minor heirs, idiots or insane persons, without guardians or without any other means of support, the court is, in his discretion, authorized to withhold such lands from sale, until a settlement of such person can be made, and a guardian chosen or appointed to protect the rights and interests of such person: *Provided*, Such withholding shall not act to prejudice the lien of the State, county or township for such taxes, or the right to include the same in any subsequent petition for sale as in this act provided. In case of the sale of lands belonging to any infant, idiots, minor heirs, insane or incompetent persons, if it shall appear to any court that it is necessary to protect the rights of such incompetent person, to order any sale canceled, or deferred, it may so order, and in such case all proceedings may be stopped, sale canceled or action stayed until the proper proceedings can be had to protect the rights and property of such incompetent person or persons. Lands of incompetent persons. Proviso. Cancellation, etc., of sale.

Section applies to incompetents not under guardianship.—Foegan v. Carpenter, 117 M. 89. As to infants rights see Ballentine v. Clark, 38 M. 395.
Laches in filing bill to establish his rights is not imputable to a minor nor to any person incompetent to act in his own behalf.—Dragoo v. Dragoo, 50 M. 573. See Sirr v. Miller, 6 Det. Leg. News 585.

OF SALE BY COUNTY TREASURER.

SEC. 70. Am. Act 225 of 1897. (3893) Am. Act 262 of 1899. On the first Tuesday of May, beginning at ten o'clock a. m., the county treasurer shall commence the sale of the lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day, Sundays and other legal holidays excepted, until so much of each parcel shall be sold as shall be sufficient to pay such amounts. Each parcel described in the decree shall be Sale of delinquent lands.

Each parcel to be separately offered.

Sale of smallest interest.

Sale at county seat.

Immediate payment required.

Penalty for non-payment.

Re-offer of unsold parcels.

State bids for several interests.

Taxes and charges continue a lien.

Entry of sale, etc., in Tax Record.

Certificates of sale.

Report of sale.

separately exposed to sale for the total taxes, interest and charges, and the sale shall be made to the person paying the full amount charged against such parcel, and accepting a conveyance of the smallest undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount of the tax on which the same is sold. If no person will pay the several taxes and charges and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold. The sale shall be at the county seat, at the office of or at such convenient place as shall be selected by the county treasurer, and shall be subject to the taxes assessed subsequent to taxes included in the decree and for the year for which the sale is made. The county treasurer may, in his discretion, require immediate payment of any person to whom any parcel of such land may be struck off, and in all cases where payment is not made in twenty-four hours after sale, he shall declare the bid canceled and sell the land again; and any person to whom any parcel of land shall be so struck off neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid, and costs of suit therefor, which amount may be recovered in the name of the people of the State of Michigan in an action of debt, in any court of competent jurisdiction, and it shall be the duty of the county treasurer and prosecuting attorney of the county to prosecute for all such delinquencies and penalties without unnecessary delay. Any subsequent bid of such person made at the sale may be disregarded by the treasurer. If any parcel of land cannot be sold for taxes, interest and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the State, for the State, county and township, in proportion to the taxes, interest and charges due each. And in such case the taxes assessed on the lands so bid off to the State, and the interest and charges thereon, shall remain a lien upon said lands, and any person or persons may thereafter purchase such lands of the State, as State tax lands or otherwise, as provided in this act. The county treasurer shall enter in the proper columns of the Tax Record the interest in lands sold, the name and postoffice address of each purchaser opposite each parcel of land sold, and the word "State" opposite each parcel bid off in the name of the State. Certificates shall be given to each purchaser of the lands and interests bid off by him, showing the year's tax for which he has purchased, and also the amount thereof, and of all charges paid by him at the time of such purchase, stating that he will be entitled to a deed after the period of redemption provided for in section seventy-four has expired, and that if the sale is not confirmed the money will be returned. As soon as possible after the conclusion of any sale, and within

twenty days after the day named in the notice for the commencement thereof, the county treasurer shall make and file with the clerk of the court a report of such sale, therein referring to the Tax Record for the particulars thereof. All sales shall stand confirmed, subject to the right of redemption provided for in section seventy-four, unless objections thereto are filed within eight days after the time limited for filing such report, without the entry of an order or further notice. The practice with reference to setting aside such sale shall be the same, so far as applicable, as in a sale in equity on the foreclosure of morigages: *Provided*, No sale shall be set aside for inadequacy of price, except upon payment of the amount bid upon such sale, with interest and costs: *Provided further*, That no sale shall be set aside after confirmation, except in cases where the taxes were paid, or the property was exempt from taxation. In such cases the owner of such lands may move the court at any time within one year after he shall have notice of such sale to set the same aside, and the court may so order upon such terms as may be just. As soon as practicable after sales are confirmed, the county treasurer shall make full report of the same to the Auditor General, in such form as the Auditor General shall prescribe, giving a description of the property sold, the amounts for which the same was sold, and the names and address of the purchasers, and thereupon the Auditor General shall, after the period of redemption provided in section seventy-four has expired, execute deeds to the purchasers in such form as shall be determined by him. All lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State, except as hereinafter provided. If from any cause the lands, or any parcel thereof decreed for sale by the Auditor General, shall not be sold as advertised, it shall be the duty of the Auditor General to cause sale to be made at such other time as he may fix for that purpose, of which notice shall be published at least four weeks prior to such day, and such notice shall contain a description of the lands and the amount claimed thereon, as hereinbefore provided in the first instance. The sale and all proceedings thereon shall be the same as if made on the first day fixed therefor: *Provided*, That if any parcel sold under the provisions of this section shall also be offered at the same sale as State tax lands, the purchaser must also at the same time become the purchaser from the State tax land list, and pay the taxes, interest and charges remaining unpaid thereon, for all years for which such land is held as State tax land. All sales made in contravention of this requirement shall be void. The several county treasurers shall receive on such sale only such funds as shall be receivable at the State Treasury, and all moneys received at any tax sales that belong to the State shall be paid into the State Treasury, and the expenses of advertising and sale shall be paid therefrom on the warrant of the Auditor General, and the remainder shall be placed to the credit of the general fund.

Confirmation.

Sales set aside.

Proviso.

County treasurer to report to Auditor General.

Auditor General to issue deeds.

Lands bid to State taxable.

Unsold lands readvertised.

Purchaser shall also take from State tax land list.

Void sales.

Money receivable.

Proceeds paid to State treasury.

Payment of expenses.

In all proceedings to collect the taxes after they are returned to the Auditor General or to sell the lands to enforce payment, the county treasurer is the agent of the Auditor General and does not act as a mere county officer.—Palmer v. Rich, 12 M. 414. See Secs. 93-4. But in conducting tax sales is not acting as agent of the State in such a sense as to put his action in this regard outside his official duties as treasurer and thereby make the loss by his default in accounting for the moneys received by him on such sales that of the State and so not chargeable to the county under the statute.—Attorney General v. Supervisors St. Clair Co., 30 M. 388. The statute imposes upon the Auditor General the entire authority and control over the sale of lands delinquent for taxes. The county treasurer in making the sale acts under his direction.—Clark v. Mowyer, 5 M. 462. The Auditor General cannot directly or indirectly postpone tax sales beyond the date fixed by law.—Houghton Co. v. Auditor General, 41 M. 28. If on re-offer before close of sale it is found impossible to sell, land may then be bid to State; not necessary that sale be kept open 20 days.—Barnum v Barnes, 118 M. 264. But such re-offer should not be until after the first offer has been made of the entire list of descriptions, and in no event before the second day of sale.

In Taylor v. Snyder, Walker's Chan. Rep. 490, party interested in certain land attended tax sale, but was prevented from buying by the fraudulent conduct of one to whom the land was struck off, but who failed to pay. On a subsequent day, in the absence of the interested party, the sale was made to another, in privity with the one to whom sale was first made. Held, that in a bill to have the sale declared fraudulent and void it was not necessary to offer to refund the money paid by the purchaser for the tax title fraudulently obtained by him, and that he must lose what he paid.

WHO MAY PURCHASE: See notes to Secs. 72 and 84. Purchase by mortgagee.—Fells v. Barbour, 58 M. 49.

A book kept by a county treasurer containing statements of various tax sales, the names of the purchasers and other items connected therewith, though not such a book as was distinctly required by any statute to be kept, held to be an official book and admissible as evidence to prove the facts therein stated.—Groesbeck v. Seeley, 13 M. 329.

Order of confirmation not necessary to the validity of sale. Owner not having moved to set aside sale within eight days provided for confirmation cannot thereafter in a collateral proceeding attack the sale on the ground that treasurer's report to the court did not show that the land had been offered a second time before it was bid to the state.—Hilton v. Dumphy, 113 M. 241. Sale stands confirmed without the entry of an order unless objections are filed within the statutory period.—Conley v. McMillan, 6 Det. Leg. News 617.

REPORT TO CLERK: Failure of county treasurer to make and file report of sale invalidates sale.—Millard v. Truax, 99 M. 157. Report of sale lacking details, but referring to Tax Record, etc., held sufficient.—Jenison v. Conklin, 114 M. 9. Report of sale when filed with clerk, where statute contemplates it is to remain, operates as notice to all concerned, but cannot be regarded as thus filed when it is attached to the Tax Record. Although filing report is a condition subsequent to the sale, such filing, for the purposes of giving effect to the deed and the vesting of title, must be treated as a condition precedent. Purchaser is bound to see the law has been complied with. Report of sale cannot be amended after period of redemption has expired.—Jenkinson v. Auditor General, 104 M. 34. Curative provisions of Section 99 do not apply to failure to file report.—McFadden v. Brady, 6 Det. Leg. News 283.

REPORT TO AUDITOR GENERAL: Report to Auditor General dated on day fixed for sale is erroneous; should be dated on conclusion of sale; but defect was cured by confirmation. No precise time is fixed for making report to Auditor General and report made ten days after confirmation held to be within reasonable time.—Detroit F. & M. Ins. Co. v. Wood, 118 M. 31. County treasurer has a reasonable time in which to make his report to Auditor General.—Youngs v. Peters, 118 M. 45.

Parties having rightful possession of land may before the time of redemption expires lawfully take from the premises whatever the removal of is not injurious to the freehold. As to what constitutes waste, see Ward v. Carp River Iron Co., 47 M. 65; Webster v. Peet, 97 M. 326.

ACTION TO SET ASIDE: A much stronger case must be made to set aside a sale under a decree in chancery after confirmation of the report of sale than before.—Bullard v. Green, 10 M. 268. A purchaser under decree must ascertain at his peril whether the decree was warranted or not, and though the time for appealing from the decree had expired when he purchased, he cannot claim immunity from the effects of a subsequent order without notice to him setting the decree aside as unwarrantably entered.—Ritson v. Dodge, 33 M. 463. Purchaser at a judicial sale must be considered as having submitted himself thereby to the jurisdiction of the court as to all matters connected therewith; and when he has notice of a motion to set aside the sale, and in answer thereto appears and without objection goes to a hearing on the merits, he is not in a position to afterwards object to the power of the court to decide such motion.—Blair v. Compton, 33 M. 414. Payment or offer of so much of the tax as is equitable must be made before proceedings to vacate the sale. A bill in equity will not lie to set aside a sale because of non-jurisdictional irregularities that work no injury. —Sinclair v. Learned, 51 M. 335. In Wiley v. Circuit Judge, Mich. Mandamus Cases 710, order to show cause why mandamus should not issue to compel respondent to re-open a decree (in June, 1891) after sale made in May, 1890,

and allow relator to file answer was denied. Claim not included in petition filed to set aside sale cannot be considered on appeal.—Hall v. Mann, 128 M. 201.

If the taxpayer petitions the court in chancery in the Auditor General's proceedings to foreclose a lien the court will compel him to do equity.—Conn. M. L. Ins. Co. v. Wood, 115 M. 444.

Provision and that in Sec. 98 are concurrent.—Wood v. Bigelow, 115 M. 23; Kneeland v. Wood, 117 M. 174. Sale will not be vacated for the reason that the property is valuable and the amount of the taxes is small.—Nester v. Church, 6 Det. Leg. News 284.

In direct proceeding to set aside an irregular decree the rule that "a record is conclusive evidence of its own verity" is not applicable.—Wilkin v. Keith, 6 Det. Leg. News 305.

Equitable relief.—See Albany & Boston Mining Co. v. Auditor General, 37 M. 391. One who seeks relief from a void tax sale in a court of equity will be compelled to do equity.—Connecticut Mutual Life Insurance Co. v. Wood, 115 M. 444. Bill in chancery to impeach decree establishing title must be brought within a reasonable time.—Campau v. Van Dyke, 15 M. 371. No ground for setting aside decree of sale that there was not sufficient time between final publication and time fixed for hearing for non-resident land owner to reach place of trial from his place of residence.—Waldron v. Auditor General, 109 M. 231.

A court of chancery has no power to open a decree in tax proceedings for mere irregularities of procedure upon a petition filed after confirmation of sale.—Spaulding v. O'Connor, 5 Det. Leg. News 697. A chancery judge has no authority to grant leave to file a bill of review for the purpose of setting aside a tax sale after confirmation of the sale, unless a total want of jurisdiction to make the decree is shown or one of the two causes mentioned in Sec. 70 of the tax law exists, and the hearing must be confined to these causes.—Berkey v. Burchard, 5 Det. Leg. News 723; Brooks v. Roche, 5 Det. Leg. News 811.

Where a land owner with full knowledge of all the proceedings permits his land to be sold for dilinquent taxes and allows two years to elapse without taking any steps provided by law to test the validity of the proceedings, he cannot thereafter, and after third parties have become interested in products severed from the land, file a petition to reopen the decree entered in the original proceedings.—Cook v. Hall, 6 Det. Leg. News 1070.

Proceedings in chancery for the sale of lands delinquent for taxes on petition of the Auditor General are pursuant to a special and limited authority conferred by the statute and the rule which obtains in cases which fall within the ordinary jurisdiction of chancery courts that if the court has jurisdiction of the parties and the subject matter its decree though erroneous is binding until set aside, is not applicable to such proceedings.—Wood v. Bigelow, 115 M. 123.

A sale made by the Auditor General under the provisions of the tax law of 1899 will not be vacated in a direct proceeding solely on the ground that the report of sale failed to show that the land was re-offered for sale as provided by Sec. 62 of the tax law of 1889, where affidavits were presented to the effect that the sale was properly made and there was no proof offered to the contrary.—Dumphy v. Auditor General, 6 Det. Leg. News 1045.

See Secs. 72, 80, 106, 144.

RULES FOR SALE: The following are among the rules prescribed by the Auditor General for the annual tax sales by county treasurers:

At each adjournment public announcement should be made of the hour to which adjournment is had, but no adjournment should be made beyond the day following the day on which adjournment is had, except that adjournment from Saturday should be to the following Monday.

The sale should be concluded as soon as is practicable, but in no case should final adjournment be had until every description on the Tax Record (not withheld from sale) has been offered, and until such descriptions on the Tax Record as have not been sold on the first offer have been reoffered on a day subsequent to the day on which they were first offered, and in the same manner, and until each description on the State tax land list has been so offered and reoffered. When all this has been done the sale should be closed and reported.

No sales can be made except at public sale. County treasurers have no authority to sell, either from the Tax Record or the State tax land list, at private sale, and sales so made would be viodable, if not actually void. No valid sales can be made by county treasurers before the sale opens, during any adjournment, or after the public sale is closed.

The descriptions found in the Tax Record and not withheld from sale are to be offered first, except where any description or any part thereof is held on the State tax land list, in which case the description so held must be sold from the State tax land list at the same time as from the Tax Record, and to the same buyer.

Where a description is offered for sale and is bid to nothing, do not issue a certificate of sale, but treat it as a payment of the taxes and issue duplicate receipts.

When a parcel of land is advertised and is on the Tax Record for taxes of more than one year, do not sell for either year unless the bidder also purchases for the taxes of all years on said Tax Record.

In case objections to the confirmation of sales are filed within the time limited, entry on the original Tax Record should be made by the county clerk.

Sell each description as decreed, unless a part of the description is with-

held from sale in accordance with a special decree of the court or upon instructions from this department, or the taxes thereon are paid, in which case you will offer the balance.

In no case shall any description be altered or amended. Sell the whole description offered to one individual, firm or corporation. If it cannot be so sold, bid the whole description to the State, after offering it a second time on the day following the day on which it was first offered, or before the close of the sale.

In all cases of sale, either to an individual bidder or to the State, enter the interest sold. If the entire interest offered is sold enter the word "entire;" if an undivided interest (less than the interest offered) is sold, enter the proper fraction denoting the undivided interest sold. The omission to enter the interest sold would be just as fatal as to omit entry of the fact of sale.

Any person purchasing a description from the Tax Record, which description, or any part thereof, is for sale upon the State tax land list, must be required to purchase the description as offered in said list, otherwise description must be bid to the State. This is imperative, and sales made in contravention thereof are void.

Do not include in any certificate of purchase several descriptions bid in by any one buyer, but make a separate certificate for each description.

Every certificate of sale must bear the same number as that by which the description is indicated in the Tax Record (or State tax land list) from which the sale is made.

The practice of permitting any one to select descriptions before or during the sale and of treating such descriptions as sold to such buyer is distinctly contrary to the provisions of law. No sale can be made from either the Tax Record or the State tax land list except as the description is offered for competition, and sold to the highest bidder, if from the State tax land list, or to the one offering to pay the taxes and charges and take the smallest undivided interest, if from the Tax Record.

Each and every parcel against which decree has been entered must be separately exposed for sale, unless paid before sale or lawfully withheld. This requirement of the law cannot be satisfied by a general offer of the list.

If sale cannot be made when the parcel is first offered, such parcel must be reoffered on the succeeding day, or on some day subsequent thereto and before the close of the sale; and such reoffer should be in the order in which unsold parcels appear in the Tax Record. Descriptions must not be bid to the State until after they have been offered at least once after they were first offered; and while a description may be reoffered on the first day of the sale, no description should be bid to the State until reoffered on the second day of the sale or later, and after each and every description on the list has been offered once.

After all unsold descriptions on the list have been reoffered, and before the close of the sale, each successive description unsold must be bid to the State.

Sale must be made for the least undivided interest, and the entire interest must not be sold unless sale to an individual, firm or corporation is impossible for a less interest than the entire; but the interest bid to the State must be the entire interest.

After sales from the Tax Record have been completed, including the sale of the same description on the State tax land list (if found thereon), then proceed to offer the remaining descriptions on the State tax land list, observing particularly in regard to all sales from said list that no bid can be accepted unless for the full amount due, and for the entire description or group of descriptions as appears on said list. Sale of undivided interest in lands on the State tax land list cannot be made, unless the description was so bid to the State.

If there is competition for any description or group of descriptions on the State tax land list, sale must be made to the highest bidder, but no bid can be accepted for less than the amount for which the description or group of descriptions is held on said list; and in such case sale can only be made for the same undivided interest for which the description was bid to the State.

If several descriptions are grouped or braced together on the State tax land list, no part of the land so grouped can be sold without purchase of the entire group, nor for less than the aggregate amounts for which all descriptions so grouped are held on said list; and sale of the entire description or group of descriptions must be made to one individual, firm or corporation. *Act 263 of 1897 is not applicable to sales made by county treasurers* at the annual tax sale.

Withhold from sale all descriptions on either list upon which the taxes have been paid to the town treasurer, twice assessed, not subject to taxation, or so incorrectly described as to have been subject to rejection when returned.

Give in the certificate of sale, and also enter in the Tax Record and the State tax land list, the *full* name and postoffice address of every individual, firm or corporation to whom you strike off a parcel of land. Do not use initials where the full name is obtainable. In case of sale to a firm enter and make certificate in the names of the individuals composing the firm and not in the firm name.

If the amount of any bid is not paid within 24 hours after it is made, cancel the sale and reoffer the description. *You may demand immediate payment*, but if you do not cancel the sale at the expiration of the time named it cannot thereafter be canceled because of non-payment. In such case you must be considered as having personally assumed the payment of the amount of the bid.

SEC. 71. Am. Act 154 of 1895 and Act 225 of 1897. (3894) At the sale aforesaid the respective county treasurers shall give to the purchasers, on the payment of the bids, a separate certificate in writing for each parcel, describing the lands purchased and the amount paid therefor, the name of the person to whom the same was issued, the number, date and amount of each certificate, and such certificate shall be regularly numbered and entered in the book kept for that purpose and designated as the tax record. Such certificate shall be in substantially the following form: Certificates of sale.

Form.

STATE OF MICHIGAN, } ss.
County of..... }

County Treasurer's Office.....A. D. 18...

I, ..., county treasurer of the county of ....., in said State, do hereby certify that I did, at public auction, pursuant to notice given as by law required, on this.....day of.....A. D. 18..., sell to..... of ....., the lands herein described, for the sum of.....dollars and..... cents, said sum being the amount due and unpaid for taxes, interest and charges on said lands for the year of our Lord one thousand eight hundred and....., that the said....., his heirs or assigns, will, if said sale stands confirmed, be entitled to a deed of conveyance of said lands, after the first Tuesday in May in the year following the sale thereof as herein evidenced, unless sooner redeemed from such sale according to law. Said lands are described as follows, with the sum for which they were sold, set opposite each description, that is to say: [Here insert description, and the amount bid therefor.]

.....
County Treasurer.

Purchaser has no title until time for redemption has expired.—Cooley on Taxation, 542. Certificate of tax purchase will cloud title if deed to be issued thereon would establish presumptive title adversely. Assignment of a certificate of tax purchase that is regular on its face is a valuable consideration.—Stoddard v. Prescott, 58 M. 542. Where record of sale and certificate issued conflict, record governs.—Kneeland v. Hull, 116 M. 55.
See Secs. 72, 115.

SEC. 72. (3895) On presentation of such certificate of sale to the Auditor General or his deputy after the expiration of the time provided by law for the redemption of land sold as aforesaid, the Auditor General or his deputy shall execute and deliver to the purchaser, his heirs or assigns, a deed of the land therein described, unless the sale thereof shall have been redeemed or annulled as by law provided, which deed shall be entitled to record in the office of the register of deeds of the proper county, in the same manner and with like effect as other deeds duly witnessed, acknowledged and certified. Such deeds shall convey an absolute title to the land sold, and be conclusive evidence of title, in fee, in the grantee, subject, however, to all taxes assessed and levied on such lands subse- Auditor General to issue deeds. Deeds entitled to record. Deeds convey absolute title.

Writs of assistance.

Loss of certificate.

Refunding of redemption.

Penalty for false affidavit.

quent to the taxes for which the same was bid off. The courts may, on application, put the purchaser in possession of the premises by writs of assistance. In the case of the loss of such certificate of sale, the purchaser or his legal representative or assignee, may file his affidavit of such loss, and that he was at the time of such loss the *bona fide* and legal holder thereof; and the Auditor General or his deputy shall thereupon execute, as aforesaid, a deed for the lands described in such certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered; and if the same shall have been redeemed, on the presentation of such affidavit the money shall be paid to such person in the same manner as though the certificate of sale had been surrendered. Any person who shall make an affidavit as above required, or concerning any other matter which may be filed in the office of the Auditor General, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof, before a court having jurisdiction of the offense.

A deed of quit-claim and release of the form in common use shall be sufficient to pass all the estate which the grantor could lawfully convey by a deed of bargain and sale.—8967 C. L. '97. Power of Auditor General to convey lands cannot be assumed from authority to sell for taxes, but must be expressly conferred by statute.—Sibley v. Smith, 2 M. 486.

Duty of grantor under Auditor General's deed to record his deed on request of grantee.—9029 C. L. '97.—Fee for recording.—11227 C. L. '97. Deputy Auditor General may sign tax deed in his own name when Auditor General is sick of necessarily absent, and the presumption in favor of official action lies in the absence of any direct showing that the Auditor General was absent or sick.—Westbrook v. Miller, 56 M. 148. See 98 C. L. '97 and Drennan v. Herzog, 56 M. 467; Fells v. Barbour, 58 M. 49. A deed to a non-existent grantee is void.—Skinner v. Mt. Clemens, 54 M. 543. Deed need not recite proceedings prior to sale.—Sibley v. Smith, 2 M. 486. The omission to record a deed does not divest grantee's title.—Smith v. Fitting, 37 M. 148. Validity of tax deed does not depend upon its being recorded when no question of priority is raised.—Fells v. Barbour, 58 M. 49. Purchaser as between himself and the owner of other lands is bound at his peril to take notice of description in his own deed, and if he or his grantees make a mistake and go on the lands of others, they must bear the consequences.—King v. Potter, 18 M. 134.

Where the words in deed adopted by Auditor General are those provided by 9015 C. L. '97; deed operates to convey title to the grantee.—Mann v. Carson, 6 Det. Leg. News 288; Dawson v. Peters, 5 Det. Leg. News 788. A tax title if valid destroys and cuts off all liens and incumberances previously existing against the land even homestead and dower rights.—Robbins v. Barron, 32 M. 36. Purchasers of tax titles take no more than the deed gives them.—Reilly v. Blaser, 61 M. 399. Sale under law of 1893 if valid operates to vest in the purchaser an absolute title in fee whether that purchaser be the state or a private individual.—Connecticut Mutual Life Ins. Co. v. Wood, 115 M. 444. One cannot maintain an action to quiet his tax title or set it up as a defense against the original owner until he has obtained his deed.—Boardman v. Boozwinkle, 6 Det. Leg. News 467.

Purchaser acquires an inchoate title subject to be defeated by redemption within the statutory period. In Stout v. Keyes, 2 Douglas 184 (a mortgage sale), held that when purchaser's title becomes absolute by the failure to redeem, it relates back to the time of the purchase and he may, therefore, after his title is thus perfected, maintain an action for injury done to the estate maliciously, and with knowledge of his rights, by the cutting and carrying away growing timber, after the purchase and before the expiration of the time for redemption, and that case is the proper common law remedy; but in Hess v. Griggs, 43 M. 397, it was held that a tax deed cannot relate back to the time of the sale for the purpose of making parties trespassers by reason of acts done on the lands before the deed was given. For some purposes such a deed may relate back to the time of the sale. In some cases the occupants of lands may be liable for waste under such circumstances.

A tax title relates back to the date of purchase for all purposes of effecting substantial justice but not otherwise.—Conn. Mutual Life Ins. Co. v. Bulte, 45 M. 113. In an action of trespass to lands where the plaintiff is not in actual possession but bases his right upon a legal title and the constructive possession claimed to be drawn therefrom, evidence of tax titles held by third persons is admissible, such titles being prima facie paramount, and therefore unless overcome, defeating plaintiff's right of action.—Tolles

v. Duncombe, 34 M. 101. A defendant in trespass who entered into possession under a tax deed and cleared up and fenced a portion of the land and planted a crop and was in actual possession, claiming under said deed, is in position to contest plaintiff's title, the deed though conceded to be void, giving him color of title to the whole premises.—Hecock v. Van Dusen, 80 M. 359. Claimant under a void tax title is not in a position to contest the title of one in possession of the land, having no interest in the equities between the parties to the action.—Loose v. Navarre, 95 M. 603.

The State does not guarantee tax titles except as statutes may provide for it, and in all other cases the purchaser must be content with such interest as he gets under his tax purchase. The State does not assume any responsibility for irregular conduct on the part of the local taxing officers; and the tax purchaser has the same means of ascertaining the legality of the tax that are possessed by any of the State authorities.—Rice v. Auditor General, 30 M. 12. A grantee is chargeable with notice of whatever appears in the chain of titles through which he claims.—Fitzhugh v. Barnard, 12 M. 104. Purchasers at public judicial sale or under a quit-claim deed usually buy at their own risk of the regularity of title.—McGoren v. Avery, 37 M. 120. Parties purchasing titles under judicial sales get only that which can be lawfully sold.—Walsh v. Varney, 38 M. 73.

Statutory provision for quieting title, 448 C. L. '97, not repealed by general tax law.—Canal and Railway Co. v. Auditor General, 79 M. 351. In action to quiet title under tax deed, if defendant desires to impeach the prima facie title set up in the bill he must set forth specifically facts which if proved would defeat the tax sale.—Wagar v. Bowley, 109 M. 388. Where taxes are a valid claim and legally assessed, but there are defects in enforcement rendering the levy invalid, cloud can only be removed on condition of payment of tax.—Hamilton & Merryman Co. v. Township of L'Anse, 107 M. 419. Assignee of mortgage made by one in possession under tax deeds which are not attacked having foreclosed his mortgage has a perfect title, which cannot be detracted from by conveyance made after the tax sales by receiver to whom holder of original title conveyed the land under order of court before the tax sales.—Sherer v. Judson, 100 M. 539.

If the taxpayer is in possession and files a bill to remove a cloud from the title, the court may then compel him to do equity.—Conn. M. L. Ins. Co. v. Wood, 115 M. 444.

In Lillie v. Snow, 118 M. 611, held that one who acquired title by tax deed and obtained possession by paying tenant a consideration, had the right to file bill under 488 C. L. '97 to quiet title.

DEED AS EVIDENCE OF TITLE: It is not within the province of the legislature to deny the right to defend title against a tax deed. The legislative intent was that the deed should be evidence of title in fee simple after the right to give the deed was shown by proof of a valid decree.—Taylor v. Deveaux, 100 M. 581. See also McKinnon v. Meston, 104 M. 642. Provision making tax deed conclusive evidence of title does not render the act void.—Ball v. Ridge Copper Co., 118 M. 7.

Tax deed is presumptively valid; its invalidity is not to be inferred from ambiguous facts or from a failure to find facts.—Stockle v. Silsbee, 41 M. 615. Sec. 72 does not purport to make the deed evidence that the sale was regular, nor does it purport to make the deed evidence, even prima facie, of the truth of the recitals contained therein. One relying upon such a deed must show a valid decree and the sale thereunder.—Dawson v. Peters, 5 Det. Leg. News 788. If the proceedings to foreclose tax liens show upon their face want of jurisdiction the deeds issued thereunder are void; but the jurisdiction cannot be attacked by evidence de hors the record.—Watts v. Bublitz, 99 M. 586.

Two tax deeds, one of which conveys to the grantee an undivided three-fourth of the land for delinquent taxes of a specified year, and the other an undivided one-third for delinquent taxes of the succeeding year, do not necessarily convey the entire title to the purchaser.—Laird v. Coach, 112 M. 628. Owner of land can maintain trover for timber by one claiming under void tax title where the possession was for the sole purpose of cutting the timber.—Moret v. Mason, 106 M. 340.

Further as to tax deed as evidence of title see Lacey v. Davis, 4 M. 140; Groesbeck v. Seeley, 13 M. 329; Wright v. Dunham, 13 M. 414; Blackwood v. Van Vliet, 30 M. 118. See notes to Sec. 77.

WRIT OF ASSISTANCE: A writ of assistance is the regular process for carrying out a decree of possession. Its object is to compel parties who are bound by a decree to give up the possession which they hold as mere tenants at sufferance and which by the decree and sale under it, they have become estopped from further asserting. A writ of assistance can never be proper where there is any real controversy as to the right of possession not precluded by the decree and sale.—Ramsdell v. Maxwell, 22 M. 285. A writ of assistance is proper only where a party concluded by the proceedings refuses to give up possession upon request, and it should not be granted without proper evidence of such refusal after the right of possession is established.—Howard v. Bond, 42 M. 131. Application for writ must be made to circuit court.—Ryerson v. Eldred, 18 M. 145.

Held error for the trial court in proceedings to set aside a tax decree instituted prior to the hearing of an application for writ of assistance to decide the case solely upon the pleadings and to refuse to allow petitioner to introduce testimony in support of the allegations in the writ of assistance.—Roberts v. Loxley, 6 Det. Leg. News 256. Purchaser of land under decree in tax proceedings cannot be compelled to resort to a court of law to gain possession and is entitled to introduce competent testimony as he desires in the case.—Beck v. Finn, 6 Det. Leg. News 635.

Where upon the hearing upon application for writ of assistance it is shown that the owner of the land has made an application to the county treasurer for a statement of all taxes against the land and had paid the amount reported by the treasurer as due for taxes, the appellate court will defer the issuance of the writ of assistance and give the owner an opportunity to make application to the Auditor General for a certificate of error, or to apply to the court if that right is not lost by the lapse of time.—Mann v. Carson, 6 Det. Leg. News 288.

Section not unconstitutional in that it deprives owner of right of trial by jury. The inquiries upon filing petition for writ of assistance are (1) whether the court had jurisdiction to render the decree; (2) whether all the steps required by the statute have been taken in making the sale, filing the report of sale, etc.; (3) whether the time for redemption has expired. The rules for the enforcement of a decree in a foreclosure proceeding are applicable to the enforcement of a decree in tax proceeding.—Ball v. Ridge Copper Co., 118 M. 7; Youngs v. Peters, 118 M. 45. Remedy against writ of assistance is by appeal. Aldrich v. Wayne Circuit Judge, 111 M. 525. See Sec. 137.

WHO CANNOT ACQUIRE TITLE: An agent who is authorized to sell property for the best price that can be obtained for it cannot become the purchaser either in his own name or that of another.—Ingerson v. Starkweather, Walker's Chan. Rep. 346. An agent for the sale of property under a contract with the owner acts in a fiduciary capacity and cannot acquire an adverse title by purchasing the premises at foreclosure sale in his own name.—Kimball v. Ranney, 6 Det. Leg. News 690. No one without express authority of law can become a purchaser of property which it is his duty to sell for the best price it will bring.—Ames v. Booming Co., 11 M. 139. The law will not permit an agent to act for himself and his principal in the same transaction, as to buy of himself as agent the property of his principal and the like. Public officers are agents within this rule.—People ex rel. Plugger v. Township Board of Overisel, 11 M. 222. See Walton v. Torrey, Harrington Chan. Rep. 259.

County treasurer conducting tax sale cannot be a purchaser. Sale conducted by clerk in office of county treasurer who represented the purchaser held void. County treasurer should not act for a purchaser because the two interests are conflicting.—Hall v. Collins, 117 M. 617. Neither the county treasurer nor his deputy can purchase at annual tax sale.—Wait v. Gardner, 6 Det. Leg. News 1001. Agent for sale of property has no right to make himself the agent of others for the purchase of the property.—Moore v. Mandlebaum, 8 M. 433.

Purchaser, if owner of interest sold acquires no title.—Legare v. Semple, 32 M. 437. One in possession of land claiming title can acquire no additional interest by suffering the land to be sold for taxes and becoming the purchaser if such taxes were a lien upon the land at the time of his taking possession; and it is immaterial whether the land is assessed to the occupant or otherwise.—Lacey v. Davis, 4 M. 140; Day v. Cole, 65 M. 129. But to preclude any person from making and relying upon a purchase of lands at tax sale there must be something in the circumstances of the case which imposes upon him a duty to the State to pay the tax or something which renders it inequitable as between himself and the holder of the existing title that he should make the purchase.—Blackwood v. Van Vliet, 30 M. 118. See also Gilman v. Riopelle, 18 M. 145.

Tenant cannot buy adverse title which existed when he received his lease and make it the basis of a suit in equity to quiet his title as against the landlord.—Ryerson v. Eldred, 18 M. 12. Tenant cannot buy tax title and set up against landlord's title.—Williams v. Powell, 65 M. 204. Life tenant cannot by neglecting to pay taxes and allowing the lien to be foreclosed, cut off the title of the remainder-man by purchasing at tax sale.—See Bowen v. Brogan, 5 Det. Leg. News 775.

When the owner of a distinct tract of land neglects to pay his taxes thereon and the same is sold jointly with the land of others for the non-payment and he becomes the purchaser of the whole, the sale is void, the purchaser being in default in not paying his own tax.—Cooley v. Waterman, 16 M. 366. When there is a bona fide controversy respecting a title and one of the claimants is in possession he owes no duty to the other to keep the taxes paid, and may therefore strengthen his claim by procuring tax titles. But if a claimant cannot rely upon a title purchased by himself, he cannot make use of one obtained by another.—Jeffery v. Hursh, 45 M. 59. A tenant-in-common who has entered upon a portion of the premises is not barred from buying the remainder of the title.—Chamberlain v. Ahrens, 55 M. 111. One who has purchased lands from a claimant under tax deeds cannot defend a suit to foreclose a purchase money mortgage given by him upon the ground that it was his duty as an administrator in possession to discharge the taxes for the non-payment of which the deeds were executed and that therefore he acquired no title and the mortgage could convey none.—Judson v. Miller, 106 M. 140.

Taxes due upon mortgaged lands are as much a lien upon the mortgaged interest as upon the equity of redemption; and where one having second mortgage allows the land to be sold for taxes and obtains a tax deed he cannot use such deed adversely to the first mortgage. It inures to the protection and not to the destruction of the regular title. Mortgagee cannot use tax title adversely to regular title.—Horton v. Ingersoll, 13 M. 409. Purchase of tax bids operates as a payment of the taxes so far as a mortgagee or his assigns are concerned.—Fells v. Barbour, 58 M. 49. Adverse tax title cannot be pleaded as a defense to a purchase money mortgage where no claim under

it has been made against the mortgagor.—Smith v. Fitting, 37 M. 148. When a mortgagee instead of making payment of the taxes purchases the land at tax sale the mortgagor may treat the purchase as a payment and compel the cancellation of the certificate or deed on refunding the amount paid with interest; but this is the right of the mortgagor only. Neither party to a mortgage can be suffered to buy at a tax sale against the will of the other and thereby cut off the other's interest; but either may bid if the other makes no objection.—Maxfield v. Willey, 46 M. 252. A tax title being purchased by mortgagee to protect the mortgage, it is proper in decree of foreclosure to provide that upon payment of the cost and interest, the tax title be assigned to the mortgagor.—Baker v. Clark, 52 M. 22.

Mortgagee cannot suffer lands to be sold for taxes and get title under the sale.—Boardman v. Boozwinkle, 6 Det. Leg. News 467. Purchase of tax title by mortgagor held merely a payment of taxes he was in duty bound to pay.—McKisson v. Davenport, 83 M. 211. Where mortgagor conveys by voluntary conveyance a mortgage containing a convenant on the part of the mortgagor binding himself and his assigns to pay the taxes the grantee cannot after having asked and obtained an extension of a mortgage defeat such mortgage by the purchase of an outstanding tax title.—Brown v. Avery, 6 Det. Leg. News 849.

Vendee of land contract who has allowed the land to be sold for taxes which it was his duty to pay, cannot interpose such sales as defense against foreclosure.—Pringle v. Wagoner, 110 M. 612. Where one enters under an arrangement with another who is in possession by virtue of a contract with the owner requiring him to pay all taxes, he can acquire no valid title to the premises as against such owner by virtue of any tax sales for taxes which under the contract it was the duty of his assignor to pay, but would hold any title thus acquired in trust for such owner.—Bertram v. Cook, 32 M. 518. The claimant of a pretented title which he had no right to retain or assert against another party is regarded in equity as holding in trust for the other party and as bound to release it to him on just terms.—Crooks v. Whitford, 40 M. 599.

An attorney of an insurance company who purchased a tax title after foreclosing a mortgage in company's name and quit-claims to company is recognized as purchasing for himself; but his subsequent action was a recognition of his agency in making the purchase.—A tenant who has covenanted to pay the taxes cannot, having neglected to do so, acquire a tax title which shall shut off the title of his landlord. Neither shall the purchaser in possession under an executory contract be allowed to cut off the rights of his vendor by like purchase, nor a mortgagor that of his mortgagee.—A second mortgagee is not bound to protect the first mortgage by payment of taxes or purchase at tax sale, but if he does so it is a protection ipso facto.—A mortgagee owes no duty to a subsequent mortgagee or to the owner to protect the party from tax liens; but all three owe a duty to the State to pay the taxes, and the State will sell the interests of all if none of them shall pay. As between themselves the primary duty is upon the mortgagor. But the purchase at tax sale in either case is only a payment of the tax.—Conn. Mutual Life Ins. Co. v. Bulte, 45 M. 113.

A tenant-in-common of lands can acquire no title to the interest of his co-tenant by bidding in the lands at a sale of the whole for delinquent taxes.—Page v. Webster, 8 M. 263; Butler v. Porter, 13 M. 292. If such co-tenant procure another person to bid in the property for him, and to take the deed, this will give him no greater right. It is the duty of the tenant-in-common in possession of and using the whole estate, to keep down the taxes on the whole during his occupancy, and he cannot take advantage of his own violation of this duty to acquire the interest of his co-tenants in the land by purchase at a tax sale. Where a tenant-in-common in possession of and using the whole estate fails to pay the taxes, and a stranger purchases the same at a tax sale, in such a manner as to be himself entitled to assert his tax title against all the owners, the purchase of such tax title by such tenant only corrects the wrong he had before committed and operates as a payment of the tax. He cannot set up such tax title against his co-tenants. Whether a tenant-in-common not in possession, and hence not under obligation to pay the taxes of his co-tenant, can purchase of a stranger who without collusion with him has acquired it on his own account, a tax title based upon the default of his co-tenant, and set it up against such co-tenant-quere.—DuBois v. Campau, 24 M. 360. As to identification of the undivided interests purchased onus is on purchaser to show what it covers.—Butler v. Porter, 13 M. 292. A purchaser from one who holds only an undivided interest in patented lands, and who enters as a stranger to the rights of his co-tenants of the other undivided interests, is not estopped from setting up against them an adverse claim that originated before his purchase, such as a tax title that arose from his grantor's default. Estoppel from purchasing a tax title lies only against those who ought to have paid the tax or removed the burden.—Sands v. Davis, 40 M. 14.

A widow who has conveyance from all but one of the heirs of her husband's estate and is in possession under such title and her statutory rights cannot acquire adverse title as to such heir by purchasing a tax title paid for by her husband's grantor, to protect his covenants of warranty pursuant to agreement made with the husband in his lifetime, nor can her grantee with knowledge of all the facts do so.—An heir cannot set up an adverse claim to land of which his father died seized, under a tax title purchased after his death and paid for by his grantor to protect his covenant of warranty pursuant to an agreement made with the father in his lifetime, such title belonging equitably to the estate.—Richards v. Richards, 75 M. 408. Sec-

ond life-tenant cannot obtain a tax title during incumbency of first life-tenant which can be set up against remainder-man.—DeFreese v. Lake, 109 M. 415. Husband in joint tenancy with his wife cannot acquire a valid tax title against her.—Ward v. Nestell, 113 M. 185.

RESULTING TRUST: In Linsley v. Sinclair, 24 M. 330, party purchasing tax title for another repudiated agency, asserted title in himself and conveyed the land. The court found that he procured title for the fraudulent purpose of appropriating it to his own use and held that the statute (see 8835 e. s. '97), providing that no trust shall result in favor of party furnishing consideration for a purchase in the name of another, does not apply to a conveyance obtained by fraud.—See also Russell v. Miller, 26 M. 1. Implied or resulting trusts may be established by proving the transaction out of which they result or are implied, and such proof may be by parol testimony.—Ripley v. Seligman, 88 M. 177.

ATTORNMENT: A tenant in possession under one title can make no valid attornment to one not in privity with that title.—Fuller v. Sweet, 30 M. 236. A tenant in fact cannot dispute the title under which he obtains possession.—Nims v. Sherman, 43 M. 45. A tenant is estopped from disputing his landlord's title during his occupancy under the lease and for any further time while he may hold over.—Bertram v. Cook, 44 M. 396. Attornment to third party in possession under writ of possession is not voluntary in such sense as to make it a wrong to original landlord.—Foss v. Van Driele, 47 M. 201. While tenant cannot during continuance of the tenancy dispute the title under which he obtained possession, he may show in summary proceedings to obtain possession of the leased premises that his landlord's title has been extinguished by a sale of the land for taxes and that he has attorned to the purchaser at such sale.—Jenkinson v. Winans, 109 M. 524. The fact that defendant in a bill to quiet title lost possession of the lands in suit through the action of complainant's agent in inducing defendant's tenant to surrender possession in order to enable complainant to maintain the bill under 448 C. L. '97, which authorizes such a suit "against any person not in possession" is no defense where defendant's title has been cut off by a valid tax deed to complainant, the defendant having the right under the circumstances to attorn.—Lillie v. Snow, 118 M. 611.

See Secs. 77, 100, 101, 140-2.

No annulment after five years' possession.

SEC. 73. Am. Act 154 of 1895. (3896) Am. Act 262 of 1899. No sale of any lands or deed made by the Auditor General under the provisions of this act shall be set aside or annulled by any court of this State after the purchaser, his heirs or assigns have been in actual and undisputed possession of such lands so sold or conveyed for a period of five years from the

Purchaser may recover for improvements.

date of such purchase or deed. Whenever any sale made under this act is set aside by any court in a less time than five years, the court shall determine and decree the value of improvements made by the purchaser, if he has been in possession, and give judgment therefor, and issue execution to collect the same of the claimant before putting him in possession.

Refunding on canceled sales.

If a sale made under this act is set aside by any court or is canceled by the Auditor General as provided in this act, the Auditor General shall refund to the purchaser the amount paid at the time of the sale, with interest thereon at the rate of six per cent per annum from the time of the purchase to the time when said sale was set aside or canceled, out of the general

Void taxes charged back.

fund of the State. In such case the Auditor General shall charge back to the county all taxes and the interest and charges thereon for all years for which it has been held that

Resale for valid taxes.

the taxes were invalid or the description erroneous, but for all years for which no invalidity has been found he shall proceed to enforce the collection of the taxes for all years refunded as herein provided, as in the case of taxes for which sale has not been made.

LIMITATIONS: Party who is to have the benefit of limitations must have entered into possession under his tax deed.—Gillman v. Riopelle, 18 M. 145; King v. Harrington, 18 M. 213. Possession must be continuous during full statutory period.—Yelverton v. Hilliard, 38 M. 355. Must appear that it was adverse to plaintiff.—Perkins v. Nugent, 45 M. 156. Statutes of limita-

tions are statutes of repose and must not be defeated by undue strictness of construction.—Towle v. Wright, 37 M. 93. Action for possession of lands to which title is claimed under tax deed or entry thereupon limited to ten years after the right to make such entry or to bring such action shall have accrued.—9714 C. L. '97. See Perry v. Hepburne, 4 M. 165; Chamberlain v. Ahrens, 55 M. 111; Harrison v. Spencer, 110 M. 215; Whittaker v. Shooting Club, 102 M. 454. Statute protects parties entering under tax titles whether good or bad after ten years occupancy.—Riley v. Blaser, 61 M. 39. See also Hardy v. Powell, 40 M. 413; Whitford v. Brooks, 54 M. 261. Proof that a deceased person occupied lands several years and died in possession is presumptive evidence of seizure in favor of his heirs or of purchasers from his estate.—Hall v. Kellogg, 16 M. 135. After the holder of a tax title has recorded it and held possession for many years, the holder of the original title cannot question the tax title in collateral proceedings, as in an action of ejectment.—Blanchard v. Powers, 42 M. 619. As to recovery for improvements see notes to Sec. 104.

ACTION TO SET ASIDE: Trial of one's rights must precede dispossession.—McCombs v. Merryhew, 40 M. 721. As to laches and unreasonable delay to apply for relief by setting aside sale in chancery, see Goodwin v. Burns, 21 M. 211; Haff v. Jenny, 54 M. 511. In a contest between one who is seeking to make a gain and one who is struggling to avoid a loss equity will favor the latter.—Miller v. Aldrich, 31 M. 408. An order setting aside a foreclosure sale and opening the case cannot be made without bringing in such third persons as have acquired rights under the sale.—Jewett v. Morris, 41 M. 689. Decree setting aside sale for jurisdictional defects should require petitioner to refund to the purchaser the amount by him paid with interest.—Jenkinson v. Auditor General, 104 M. 34. Where valid legislative act has determined the conditions on which rights shall vest or be forfeited and there has been no fraud in conducting the legal measures, no court can interpose conditions or qualifications in violation of the statute.—Cameron v. Adams, 31 M. 426.

Where in action to set aside on ground that tax was erroneously assessed as a part instead of the whole of a parcel of land, the collector's return introduced showed tax against a part of the land only, but it was consistent with the returns that the land might have been correctly assessed as a whole and a part cleared by payment before the return, the court in support of the deed would presume such payment.—Wright v. Dunham, 13 M. 414. Tax deed based upon assessment containing a fatally defective description of the property conveyed no title and owner was not estopped from denying the validity of the deed by having allowed sale to be made, and purchaser to make improvements without objection.—Petit v. F. & P. M. Ry. Co., 114 M. 362.

An imperfect title can be disputed by those only who have a better one.—Covert v. Morrison, 49 M. 133. One who attacks a judicial sale as invalid after strangers have acquired rights under it must do so by some original proceeding in which an issue can be framed and tried in the ordinary way, and the persons concerned brought in as parties.—Cook v. Hall, 6 Det. Leg. News 1070. Objections raised by petitioners in a proceeding to set aside a tax sale relative to the assessment and return of the taxes held to be foreclosed by the decree of sale and the provisions of Sec. 70.—Nester v. Church, 6 Det. Leg. News 284.

Tax sale held void on ground of fraud and conspiracy where county treasurer (who was the mortgagor) falsely represented to the mortgagee that taxes were paid and connived at sale of lands to third party for delinquent taxes.—Christian v. Soderberg, 118 M. 47.

While the holder of the tax title may rest upon his deed until the opposite party may introduce such evidence as in the absence of all counter-testimony will afford reasonable ground for presuming the proceeding anterior to the deed to be irregular, yet when this is shown the burden of proof is thrown upon the holder of the tax title. To overcome the presumption of regularity of the Auditor's deed plaintiff must show some substantial error affecting injuriously the former owner of the land.—Case v. Dean, 16 M. 12.

In O'Connor v. Circuit Judge, Mich. Mandamus Cases, 423, order to show cause why mandamus should not issue to vacate an order granting leave to file a bill of review in 1897, in matter of the petition for the sale of 1894, denied.

ADVERSE POSSESSION: If the tax purchaser obtains possession and holds it until protected by a limitation law, he then becomes safe, not because his tax title is any more regular, but because the holder of the better title has become incapable of asserting it. As an illegal tax title is a nullity it cannot of itself divest or affect the true title in any way, and the true owner cannot be lawfully compelled to incur expense or take active measures to get rid of it unless he sees fit; but if he becomes ousted, whether by a pretended tax title holder or by any adverse claimant, he can only secure the enjoyment of his rights by active measures, and the party in possession may then rely on such possession until it is lawfully assailed by suit or otherwise within the period of limitation.—Groesbeck v. Seeley, 13 M. 329.

Adverse possession under the statute must be open, notorious, continuous, exclusive, visible and distinct, as well as adverse. There must be an actual occupancy, as distinguished from constructive possession, of a portion or all of the premises claimed; not necessarily living thereon, for, if the premises are enclosed, and cultivated, this would be a sufficient actual occupancy; and if crops were continually grown thereon, this would be a visible occupancy; and though in the interim between harvesting and recropping no person was actually on the land, and nothing done thereon, yet, if such cropping continued from year to year this would be a con-

tinuous and notorious occupancy, within the definition above given.—Cook v. Clinton, 64 M. 309; Yelverton v. Steele, 40 M. 538; Paldi v. Paldi, 95 M. 410. When one enters upon land under color of title and with claim of ownership, any acts of user which are continuous, and indicate unequivocally to the neighborhood in which the land is situated that it is appropriated exclusively to his individual use and ownership, are sufficient to render the possession adverse. It is not necessary that the occupation of land should be such that a mere stranger passing by the land would know that some one was asserting title to, and dominion over it, nor that the land be cleared or fence or any building be placed thereon, to render such occupation adverse.—Murray v. Hudson, 65 M. 670.

Payment of taxes is not necessarily such an assertion of ownership as to affect the adverse possession of another.—Cook v. Rounds, 60 M. 310. Payment of taxes is not sufficient to establish title by adverse possession but is competent evidence to be considered in determining the question.—Whittaker v. Shooting Club, 102 M. 454. A tax deed which is insufficient in itself to pass title and assessment roll showing assessment to grantee are admissible to characterize the acts of possession on the part of the grantee and his successors.—Chabert v. Russell, 109 M. 571. As to adverse possession by grantee under a deed from the holder of void tax titles, see Judson v. Duffy, 96 M. 255.

REFUNDING: Auditor General cannot refund any money upon the failure of tax titles except as some statute requires it. Act providing for refunding does not authorize such repayment in a case where the tax title has merely been introduced in evidence in an ejectment suit and held defective; but the judgment must be one acting directly upon the title.—Rice v. Auditor General, 30 M. 12. Further as to refunding see notes to sections relative to payment; also index of subjects in notes.

When sale is set aside it is the duty of the Auditor General to refund all money paid on the sale and to charge back the taxes set aside and include all other taxes in subsequent petition for decree. The lien of the State is not extinguished by payment as a condition of purchase in such case, but is only suspended.—Auditor General v. Patterson, 6 Det. Leg. News 541.

See Secs. 75, 86, 104, 144.

OF REDEMPTION AND ANNULMENT.

Period of redemption.

SEC. 74. Am. Act 154 of 1895, and Act 225 of 1897. (3897). Am. Act 262 of 1899. Any person owning any of the lands sold as aforesaid, or any interest therein, may, at any time before the first Tuesday in May in the year following such sale, redeem any parcel of such lands, or any part or interest in such lands, by showing to the satisfaction of the county treasurer or Auditor General that he owns only that part or interest in the same which he proposes to redeem, by paying to the county treasurer or Auditor General the amount of the sale of the parcel of land, or the portion thereof wished to be redeemed, and interest thereon from the date of such sale. Upon the payment of the redemption money and interest thereon at one per cent per month or fraction thereof to the county treasurer as aforesaid, he shall issue a redemption certificate in duplicate in such form as may be prescribed by the Auditor General, both of which certificates shall be countersigned by the county clerk, who shall make an entry of the number of such certificate, the amount for which it was given and the name and address of the person paying the same, one of which certificates shall be delivered to person making such redemption payment, and the other shall be immediately transmitted to the Auditor General. The county treasurer shall also make a minute of such redemption certificate in the tax record book kept in his office, with the name of the payee, the date and the amount paid. Such certificate or the duplicate, and the entry thereof by the clerk or the county treasurer, shall be evidence of such redemption payment in the courts of this State. In case any such lands are redeemed at the office of the Auditor General,

Redemption certificates.

Notice of redemption.

Record.

Evidence of redemption.

a notice containing all the above facts shall be sent to the county treasurer of the proper county, who shall cause the proper entries to be made on the Tax Record of his county and in the office of the county clerk.

Notice and record of redemption at Auditor General's office.

County treasurers are provided by the Auditor General with blank applications which all applying to them to redeem should be required to fill and sign. The form includes the statutory showing of interest. The same blank is furnished by the Auditor General to all who make application to redeem at his department.

It does not appear to be incumbent upon the officer to whom a tender for redemption is made to determine the title or interest of the party who seeks to redeem (legal titles are to be tried by law.—Hoffman v. Beard, 22 M. 59); but presumably when showing of interest is made in proper form such showing will be accepted as satisfactory unless the officer has proof that the applicant has not such interest as he claims he has.

Right of redemption exists only when permitted by statute. Courts cannot read into the law extensions of time, exceptions, etc.—Dumphy v. Hilton, 6 Det. Leg. News 432.

One having no legal or equitable interest in the premises cannot redeem.—Harwood v. Underwood, 28 M. 427. A volunteer cannot redeem.—Smith v. Austin, 9 M. 465, 11 M. 34. Sale of standing timber is sale of an interest in the land.—Johnson v. Moore, 28 M. 3; Russell v. Myers, 32 M. 522; Wetmore v. Neuberger, 44 M. 362; Wait v. Baldwin, 60 M. 622; Williams v. Hyde, 98 M. 152; but a parol license to cut timber is not.—Greeley v. Stilson, 27 M. 152. Equity of redemption is an interest in land.—Rawdon v. Dodge, 40 M. 697. A right of way is an interest.—D. H. & I. R. R. Co. v. Forbes, 30 M. 175. So is an easement.—Millard v. Reeves, 1 M. 110. See also Fletcher v. Township of Alcona, 72 M. 18. Owner of undivided interest may redeem.—People v. Treasurer of Detroit, 8 M. 14. Further as to who may redeem see Cooley on Taxation 538-9, and cases cited at Sec. 8507 H. S. Redemption gives no new title. It simply relieves the land from the sale.—Cooley on Taxation 543. In Johnston v. Knapp, 35 M. 307, it was suggested that a redemption when made is sufficient in all cases and by whomsoever made to save the title to the real owner whoever he may be. As to right of redemption see also Cargill v. Power, 1 M. 369.

Interest on redemption is rather a penalty or an exaction for the privilege of redeeming.—F. & P. M. R. R. Co. v. County Treasurer of Saginaw, 32 M. 260. Right to redeem strictly limited to the statutory period.—Gantz v. Toles, 40 M. 725. Courts of equity cannot extend or enlarge time for redemption.—Cameron v. Adams, 31 M. 426. Statutory time for redemption is not affected by the mistaken date of expiry in certificate of sale.—Muirhead v. Sands, 111 M. 487.

A party who through negligence or gross ignorance of the law fails to redeem within the time limited by statute has no claim to relief in equity.—Campau v. Godfrey, 18 M. 27. Owner and purchaser agreed upon amount for assignment of certificate, and former relying thereon, permitted time for redemption to expire, after which purchaser obtained deed and refused thereafter to accept tender of agreed amount; Held, to be fraud upon the owner and that he was entitled to decree against purchaser for conveyance.—Laing v. McKee, 13 M. 124.

In Fitzgerald v. Auditor General, Mich. Mandamus Cases 1034, mandamus to compel respondent to execute to relator deed of lands sold at tax sale, respondent having previously issued certificate of redemption, was denied. In Detroit F. & M. Ins. Co. v. Wood, 118 M. 31, owner remitted to county treasurer to redeem from sale for taxes of 1891 and 1892 and county treasurer issued certificates of redemption for both years, time for redemption from sale for tax of 1891 having expired. Auditor General accepted the duplicate for 1892 and declined to accept that for 1891. Held when owner remits sum to be devoted to discharge of specified taxes it should all be applied as intended or no part of it accepted.

Money paid by the holder of a mortgage to redeem from tax sale does not constitute a lien apart from the mortgage but is discharged when the mortgage is satisfied.—Vincent v. Moore, 51 M. 618.

Copy of decree of annulment.

SEC. 75. (3898) Whenever any court of competent jurisdiction shall by decree annul any certificate executed by the county treasurer aforesaid or any deed issued by the Auditor General, the clerk of such court shall, on the payment, by any party interested, of fifty cents, deliver to such person a certified copy of such judgment, decree, or order, which certified copy of such judgment, decree or order shall be a proper subject of record in the office of the register of deeds of the county in which the land is situated, and on recording the same, the register shall enter in the margin of the record of the tax deed af-

Subject of record.

Notice to Auditor General.

fected by such decree or record, a brief statement of such judgment, decree or order, and shall also send notice of such decree or order to the office of the Auditor General.

Tax held illegal, when.

SEC. 76. (3899) In any suit or proceeding to enforce or set aside any tax, such tax shall be held illegal only for one of the following reasons:

Unauthorized tax. No jurisdiction.

First, That no law authorizes such tax;

Second, That the person or persons appointed to decide whether a tax shall be raised under a given law, have acted without jurisdiction, or have not imposed the tax in question;

Exempt, etc.

Third, That the person or property assessed was exempt from the taxation in question or was not legally assessed;

Tax paid.

Fourth, That the tax has been paid;

Fraudulent assessment.

Fifth, That the supervisor or board of review in assessing a person or property for taxation, or in the apportionment of the tax to the person or property in question acted fraudulently.

Other taxes sustained.

If any such illegality, omission or fraud affects the amount of one tax only, the tax shall be sustained so far as the same is legal and just.

As to period within which a sale under a decree in chancery will be set aside.—Leonard v. Taylor, 12 M. 398.

SUB. 4.—A sale made after the tax has been paid is unauthorized and the deed on such sale conveys no estate or title whatever. One claiming to have paid the tax before sale is not precluded by the deed but may go behind it and show that fact.—Rowland v. Doty, Harrington's Chancery Reports 3.

SUB. 5.—To justify court in setting aside assessment on ground of fraud and conspiracy the evidence must clearly establish the charge.—Pioneer Iron Co. v. Negaunee, 116 M. 430.

That valuation by assessing officers was too low or that property subject to assessment was not assessed is not of itself sufficient to allow taxpayer to escape taxation. It must appear that because of these things he is made to pay more than his portion of the taxes.—A court would not be warranted in holding an assessment invalid because the assessor or board of review had acted fraudulently, unless that fact was clearly established by the evidence.—Muskegon v. Boyce, 6 Det. Leg. News 1096.

See Sec. 144.

Competent evidence.

SEC. 77. (3900) In the prosecution or defense of any action or proceeding by any person holding or claiming land under any deed or deeds of lands purchased for delinquent taxes, the party so claiming, under and by virtue of such purchase, may show his title to such land and premises, whether the same was derived under one or more purchases, and may give in evidence any and all deeds of conveyance or other evidence of such purchases as aforesaid, which he may at any time have received, and may claim title under any or all of them.

Where title rests upon the validity of tax deeds covering taxes for several years briefs should be comprehensive, covering statutes, decisions, etc., applicable to each point raised.—Hoffman v. Pack-Woods Co., 114 M. 1.

It would involve an absurdity to say that a subsequent title acquired at a tax sale and which breaks up and destroys all prior titles operates at the same time to strengthen such prior titles.—Lacey v. Davis, 4 M. 153. But purchaser may bid upon the same lands at a tax sale before the time of redemption under his former purchase has expired and have the benefit of such bid.—Tweed v. Metcalf, 4 M. 579.

A claim of title under a tax deed is of necessity hostile to the title of the claimant under the original title.—Sparrow v. Hovey, 44 M. 63.

A bill to remove a cloud from the title to lands where complainant's title is through a judicial sale cannot be sustained where the proceedings which were the basis of such sale and upon which the validity of complainant's title depends are shown to be void for jurisdictional defects.—Griswold v. Fuller, 33 M. 268. Purchase at a void tax sale can in no way effect the deed made pursuant to a sale previously made.—Jenison v. Conklin, 114 M. 9.

In an action of trespass for entering land, etc., tax deeds which the evi-

dence shows are void may be treated as color of title; and if the defendant took possession under them they are admissible in evidence as tending to show what and how much lands he claims.—Hoffman v. Harrington, 28 M. 90. As to good faith of acts done under title based upon tax deeds, see Grant v. Smith, 26 M. 201; Winchester v. Craig, 33 M. 222.

OF TAX LANDS HELD BY THE STATE.

Sale of State tax lands.

SEC. 78. Am. Act 225 of 1897. (3901) Am. Act 262 of 1899. All lands heretofore or that may be hereafter bid off to the State for taxes, which have not been redeemed or otherwise disposed of, shall be offered for sale by the county treasurer at the regular annual tax sale provided to be held under the provisions of this act. The Auditor General shall furnish to each county treasurer in the month of April prior to the month of May in the year in which such tax sales are held, as provided in this act, a statement of all lands in his county that may have been bid in for the State, then remaining unredeemed or not otherwise discharged. Such statement shall exhibit the aggregate amount of all sums due on each description of land, including interest thereon at the rate of twelve per cent per annum from the first day of the month in which the land was bid in to the State until the first day of the month in which said annual tax sale is to be held, as heretofore provided for by this act.

Auditor General to make statement.

State tax land books are public records and subject to inspection by any citizen.—Aitcheson v. Huebner, 90 M. 643. Time to furnish lists is directory.—Garner v. Wallace, 118 M. 387.

Purchaser of state tax lands at annual tax sale is not required to pay all taxes then a lien as previded in Section 84 in order to entitle him to deed.—Berkey v. Burchard, 6 Det. Leg. News 288.

Notice of sale.

SEC. 79. Am. Act 225 of 1897. (3902) The Auditor General shall cause to be published for four weeks successively, which shall be construed to mean four publications once a week, next previous to the first Tuesday in May in the years provided in this act, a notice that the lands described in such statement will be offered for sale at public auction at the time and place designated for the regular tax sales. At the time and place designated in the notice, the county treasurer shall proceed to sell said lands last mentioned and continue the same from day to day, except Sundays, until the whole have been offered, and any person bidding on any of said lands, shall be subject to the requirements, provisions and penalties of section seventy of this act.

Requirements same as in sale from Tax Record.

Publication of list of descriptions of State tax lands is not required.—Garner v. Wallace, 118 M. 387. Auction sale implies sale to the highest bidder and where notice was given of sale by auction it will be presumed that it was so made.—McCammon v. Railroad Co., 103 M. 104.

Purchaser must take entire State lien.

SEC. 80. (3903) In all cases where a description of land is offered as State or county tax land, and the same description or any part thereof shall be offered in the list of lands delinquent for taxes, as provided in this act, the county treasurer shall inform the person bidding for the same of that fact, and such person shall be required to purchase said description at the same time, and if he refuses so to do, the treasurer shall

refuse his bid, and shall again offer it as if no bid had been made thereon.

For rules governing sale, see Sec. 70. See also Sec. 72.

Certificate of sale.

SEC. 81. (3904) The county treasurer shall, on payment of the purchase money of such sale, issue a certificate of sale to the purchaser, in such form as is prescribed by section seventy-one of this act, so far as the same may be applicable, number the same, and shall enter the name of the person to whom the same was issued, with the number, date and amount thereof, in a book kept in his office for that purpose.

Record thereof.

Purchaser has no right of entry on certificate before deed.—Busch v. Nester, 62 M. 381. But purchaser of unoccupied land is constructively in possession and may maintain trespass against one who without his authority having no color of title to the lands enters upon them, cuts and carries away standing timber.—Safford v. Bastow, 4 M. 406.

Certificates of sale must bear same number as that on State tax land list orposite the description.

See Sec. 115.

Auditor General to issue deeds.

SEC. 82. (3905) After the period of redemption provided for in this act shall have expired, the Auditor General, on presentation and surrender of such certificate, shall issue to the purchaser, his heirs or assigns, a deed of conveyance, except when the same has been redeemed or has been bid off to the State for another tax, and in case of redemption the amount of the redemption shall be paid to such person: *Provided*,

Proviso.

That such deed shall have the same force and effect as is given by section seventy-two of this act.

Sufficient that it be shown that deed was made in pursuance of law.—Garner v. Wallace, 118 M. 387.

A vendor acting in good faith is not responsible for the goodness of his title beyond the extent of his covenants.—Thorkildsen v. Carpenter, 6 Det. Leg. News 196.

See Secs. 73, 140-2.

Affidavit of loss of certificate.

SEC. 83. (3906) In case of the loss of such certificate of sale, the purchaser, or his legal representative or assigns, may file his affidavit, duly verified, of such loss, and that he was, at the time of such loss, the *bona fide* and legal holder and owner thereof. The Auditor General shall thereupon execute, as aforesaid, a deed for the land described in said certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered. The Auditor General shall execute a second deed of lands conveyed as herein provided, in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall recite the loss or destruction of the former deed and its date, if possible. Such deed shall inure to the benefit of the grantee in the first deed, his heirs or assigns, as the case may be, and shall have the same force and effect as said first deed. Before the execution of such deed, the party applying therefor shall pay to the Auditor General the sum of one dollar, which shall belong to the general fund of the State.

Deed on affidavit of loss.

Second deed to replace lost deed.

Fee.

When court may order new deed.—9032 C. L. '97. Second deed which does not recite upon its face the loss or destruction of former deed and its date, if possible, is no evidence of title.—Burroughs v. Goff, 64 M. 464. Applicant for second deed must make affidavit of loss of first deed and also furnish certificate of register of deeds that the deed has not been recorded.

Purchase of State tax land or State bids of Auditor General.

SEC. 84. Am. Act 154 of 1895. (3907) Am. Act 262 of 1899. Any person may purchase any State tax lands or any State bids, at any time except during the annual tax sale at the county treasurer's office, by paying therefor to the Auditor General the amount for which the same was bid off to the State, with interest on the same at the rate of one per cent per month or fraction thereof from the first day of the month in which such lands were bid off to the State, together with the other taxes which have been returned to the Auditor General and remain a lien on such lands at the time of the purchase so made, with the interest thereon at the rate provided in this act: *Provided*, That purchase may be made of any State bid within the period for redemption without payment of the taxes of subsequent years as a condition of purchase, in case the land is not held by the State as State tax land; but for all taxes remaining unpaid the land shall be liable to sale as provided by section eighty-five of this act. Upon making payment as above such purchaser shall be entitled to and receive a certificate, and a deed conveying all the right, title and interest of the State to such tax lands acquired or accrued by virtue of the original sale or sales to the State. All the provisions of law relative to deeds executed by the Auditor General on the surrender of certificates of sale made by the several county treasurers shall be applicable in making deeds for such purchases.

Conditions.

Proviso.

Certificate and deed.

Purchase under this section can be made of no officer other than the Auditor General, and if moneys are paid to the county treasurer that officer is for the purpose thus made the agent of the intended purchaser.—In Neeley v. Rood, 54 M. 134, it was held that moneys paid to county treasurer to be forwarded to the Auditor General were not received by the county treasurer in his official capacity, and that it is no part of his official duty to receive money to be paid to the Auditor General.

Purchase is complete when application is made to Auditor General and sufficient money paid. Issue of deed is a ministerial act, necessary to evidence the title which was in purchaser as soon as the statutory requirement as to application and payment were complied with.—Eldridge v. Richmond, 6 Det. Leg. News 259. It will be presumed, in the absence of evidence to the contrary, that payment was made at the date the application was received and not on the date the deed was issued.—Wilkin v. Keith, 6 Det. Leg. News 305.

Where applicant has not paid with his application all the statute requires and owner causes the current taxes to be paid and tender to the Auditor General made to pay the state bids before the purchaser makes a new and perfect application, the owner is entitled to the deed.—Wilkin v. Keith, 6 Det. Leg. News 305. Where application was made with insufficient remittance and balance was not received until another tax (not included in the remittance) was payable as a condition of the purchase, deed issued was held void.—Purchaser not entitled to deeds to the amount of his remittance with an insufficient payment for all descriptions in his application in the order in which they appear.—Hubbard v. Auditor General, 6 Det. Leg. News 258. Grantee in tax deed which is void by reason of failure to pay all the statute requires may have refunding and on proper application may repurchase if no intervening rights have accrued.—Cockburn v. Auditor General, 6 Det. Leg. News 316.

It is the duty of the purchaser to ascertain the amount of all unpaid taxes (subject to payment as a condition of purchase) at the time of his application, and it is not sufficient compliance for him to forward to Auditor General with his application a gross amount sufficient to cover taxes that may be unpaid and leave it to that official to determine that all taxes due as a condition of purchase are included.—Hall v. Mann, 6 Det. Leg. News 633. In this case the purchaser claimed that his deed should be held valid on payment of a tax which was omitted, payment for which was not retained by the Auditor General, but which his remittance was sufficient in amount to cover.

Whenever any person owning one or more government sub-divisions of lands included in the assessment with other government sub-divisions shall make or cause to be made affidavit setting forth that said person owns said sub-division, etc., and that affiant is desirous of paying all the taxes assessed against said land, upon tender by such person to the Auditor General of the proportionate amount of the taxes, interest and charges against said description, it shall be the duty of the Auditor General to issue to such person a deed of the description described in such affidavit.—3984 C. L. '97. All purchases under the foregoing provision must be made upon application to the Auditor General.

When lands subject to sale are applied for and payment tendered, Auditor General has no discretionary power to retain them from market for the accommodation of parties who had made application previously but were not ready to pay the money.—See People v. Pritchard, 17 M. 338, 341. Person applying to purchase and paying insufficient amount has no right to rely upon the verbal assurance of a clerk with whom he transacted the business that his payment would secure him the lands if on notice he should pay the balance. When two persons are contending for priority as applicants for the purchase of public lands, one has no right to object that the payment made by the other was in a draft, it having been received as money and it not appearing that it was of less value than currency.—See People v. Com. State Land Office, 19 M. 470. Where purchaser has accepted tender of purchase money and afterward re-offers it, mandamus will not lie to compel the issuance of tax deeds if in the interim the land has been conveyed to other parties.—Aitcheson v. Huebner 90 M. 643. See also Ball v. Auditor General, unreported mandamus case.

Court may at any time before enrollment of decree by default entertain the petition of owner of any land in Auditor General's petition to alter or vacate said decree, notwithstanding the purchase from the State by third party.—Benedict v. Auditor General, 104 M. 269. A party attacking a judicial sale as invalid after the rights of a third party have accrued, must do so by some original proceeding in which an issue can be formed and tried in a general way.—Crawford v. Tuller, 35 M. 57. Period of limitation against an action depends upon the act in force at the time cause of action accrued.—McKenzie v. A. P. Cook Co., 113 M. 452.

An assignee in bankruptcy who claims as a part of the bankrupt estate lands conveyed by the bankrupt prior to the commencement of the bankruptcy proceedings does not occupy a fiduciary relation to such grantee which makes it inequitable for him to claim the land as belonging to the estate or to purchase tax titles thereon granted on sales for delinquent taxes assessed after such assignment, such claims not relieving the grantee from the duty of paying said taxes.—Newaygo Mfg. Co. v. Stevens, 79 M. 398. A tax deed based upon distinct taxes of different years is valid if any one of the sales was valid whether the others were or not.—Hunt v. Chapin, 42 M. 24.

In Smith v. Auditor General, Mich. Mandamus Cases 1030, relator had applied to purchase by mail, enclosing an insufficient amount. Being advised of the shortage, he remitted the balance, but in the meantime another applicant had paid the full amount, and received deed. Relator petitioned for mandamus to compel respondent to issue deed to him. Order to show cause denied. In Widner v. Rayburn, Co. Treasurer, Mich. Mandamus Cases 1036, the facts were similar to the foregoing except that relator had made no tender nor payment before other parties had tendered payment. Order to show cause was issued but petition was withdrawn at the hearing.

In Osgood v. Circuit Judge, Mich. Mandamus Cases 370, relators had made application and payment for certain lands, and in proceedings instituted by mortgagee to set aside decree of sale relators filed petition to intervene and gave notice that their petition would be brought on for hearing on the day fixed in an order made requiring the Auditor General to show cause why the petition of the mortgagee should not be granted; but counsel for relators failed to appear in court on that day until after the court had made an order denying relators' leave to intervene. Mandamus to compel respondent to set aside this order denied.

The owner of lands which have been sold by the state for taxes cannot be heard to complain that the Auditor General accepted the personal check of the purchaser in payment of the lands.—Hubbard v. Auditor General, 6 Det. Leg. News 258.

Provisions of this section not applicable to purchases at annual tax sale.—Berkey v. Burchard, 6 Det. Leg. News 288.

The business of dealing in tax titles is lawful and is recognized and encouraged by tax laws.—Aitcheson v. Huebner, 90 M. 643. Officers and clerks in Auditor General's Department and State Land Office prohibited from purchasing.—1321-2 C. L. '97. Further as to who may not acquire title by purchase, see Sec. 72.

See Secs. 72, 115, 139, 140-2.

Sale no bar to subsequent taxes.

SEC. 85. (3908) Neither the sale of State tax lands, nor the sale of any of the bids of the State for which the time of redemption has not expired, shall in anywise prejudice the right to enforce the collection of any tax subsequent to the year or years for which the same has been sold as aforesaid, and for the taxes and charges remaining unpaid for said subsequent

year or years, the Auditor General shall cause such lands to be offered in regular succession at the next ensuing annual sales for taxes, giving notice as required by law, unless previously redeemed or otherwise discharged.

See Sec. 139.

Adverse claim. Ejectment.

SEC. 86. (3909) In all cases where it shall become necessary, in the prosecution of an action of ejectment by any person holding an adverse claim to any lands hereafter bid in for the State as provided in this act, the Auditor General may be defendant, and in all cases in the prosecution or defense of an action of ejectment or trespass by any person holding or claiming land under any deed or deeds or other conveyance of land bid off or purchased for delinquent or unpaid taxes, the party reclaiming under and by virtue of such purchase for unpaid taxes may show his title to said land and premises, whether the same was derived under one or more purchases or sales for taxes or otherwise, and may give in evidence any and all deeds of conveyance or other legal evidence of such purchase as aforesaid, which he may have received on sales for taxes, and may claim title under any or all of them: *Provided*, In no case shall the State or county be required to refund any taxes or money by reason of defect in said taxes or sales, prior to the particular tax or deed which may be decreed valid.

Evidence.

Proviso.

Action of ejectment.—10647-11012 C. L. '97. The statute places no limitation on actions of ejectment.—Harrison v. Spencer, 90 M. 586. One who paid for and procured a tax deed and caused it to be recorded is properly subject to an action of ejectment.—Tillotson v. Webber, 96 M. 144.

Quieting title.—448 C. L. '97; 11182-4 C. L. '97. The State is bound by statutes of limitation and can give no title by selling after twenty years an old tax bid for premises that have meanwhile been held adversely long enough to bar ejectment from them.—Chamberlain v. Ahrens, 55 M. 111. See also State v. F. & P. M. R. R. Co., 89 M. 481. Purchasers take not more than the deed gives them. Plaintiff in ejectment having established title to undivided one-third, judgment in his favor for entire premises cannot be sustained.—Reilly v. Blaser, 61 M. 399.

A single judgment in ejectment is not necessarily final for any purpose.—Rice v. Auditor General, 30 M. 12. Ejectment for distinct parcels of land must be brought against each separate holding.—Walsh v. Varney, 38 M. 73. The holder of a tax title whose occupancy consists in making improvements and not in actual residence, can bring ejectment against one who has forcibly entered without right and by stealth.—Van Auken v. Monroe, 38 M. 725. In ejectment to obtain possession of land held under land contract the vendee is estopped from showing title which had accrued through his fault or neglect.—Hubbard v. Shepard, 117 M. 25.

A tax deed giving a prima facie title constitutes a perfect defense in an act of ejectment.—Conn. M. L. Ins. Co. v. Bulte, 45 M. 113. Title by deed is a question of fact.—Demill v. Moffat, 45 M. 410. Summary proceedings to recover possession of lands will not lie against holder of a tax title antedating a mortgage under foreclosure of which complainant claims. The holder of a tax title may fortify it by purchasing earlier tax titles and incumbrances.—Brown v. Martin, 49 M. 565. Commulative titles.—See Lacey v. Davis, 4 M. 140.

In action of ejectment it is not error to admit in evidence a tax deed without first proving the regularity of the proceedings for the assessment of the taxes.—Dubois v. Campau, 24 M. 360. Where proceedings to foreclose a tax lien are regular, the decree is conclusive upon owner who is brought in by publication, and neither he or his grantee can question the validity of the tax in an action of ejectment brought against the grantee in the deed issued upon a sale made under said decree.—Cole v. Shelp, 98 M. 56.

Tax deed cannot be attacked collaterally on the ground that no certified copy of decree was attached to the Tax Record. Failure to so attach is not an irregularity which perjudices property rights.—A contention that the extension of the taxes opposite the lands of defendant was made after decree was signed cannot be raised in ejectment.—Gates v. Johnson, 6 Det. Leg. News 615. Tax deed cannot be attacked in a colateral proceeding on the ground that decree was void because when included in Auditor General's petition the land had been bid to the state and was thus held.—Peninsular Savings Bank v. Ward, 6 Det. Leg. News 311; Hoffman v. Pack

Woods & Co., 6 Det. Leg. News 954. Tax deed fair on its face cannot be attacked by parol in collateral proceedings.—Haven v. Owen, 6 Det. Leg. News 293.

The validity of a tax record will be presumed in a collateral proceeding, and it is not competent for the land owner in such proceeding to attempt to impeach it by the parol testimony of its lawful custodian.—Wilkin v. Keith, 6 Det. Leg. News 305.

Defendant in ejectment who fails to connect himself with the original title, etc., cannot question the title of the plaintiff under tax deeds.—Jennings v. Dockham, 99 M. 253.

Every sale of land under our tax system is a sale of the complete title and, if legal, all prior titles are cut off by it.—Sinclair v. Learned, 51 M. 335; Westbrook v. Miller, 64 M. 129. A tax title if valid destroys and cuts off all liens and incumbrances previously existing against the land, even homestead and dower rights.—A finding in an ejectment suit brought by one claiming under tax title that the lands were sold to the State for subsequent delinquent taxes and that a third person became the purchaser of the rights of the State therein, is a finding of an outstanding title in such third person prima facie valid and free from all prior liens.—Robbins v. Barron, 32 M. 36.

Former owner cannot defeat a tax title by showing in action of ejectment that he attempted to make payment. His remedy is Sec. 70 or Sec. 98.—Kneeland v. Wood, 117 M. 174.

OF ACCOUNTS AND SETTLEMENT THEREOF.

Tax accounts.

SEC. 87. Am. Act 154 of 1895 and Act 224 of 1897. (3910) Am. Act 83 of 1899. The accounts between the State, county and each township shall be adjusted on the basis of crediting and paying to each the taxes collected by and for each with the interest thereon. The Auditor General shall, on the first day of January, April, July and October in each year, make a statement of account between the State and each county respectively, and render the same to the county treasurer of each county, and draw his warrant on the State Treasurer, payable to such county treasurer, for all moneys in the State Treasury collected for the county, township, school, highway or any other purposes for such county or township or district thereof, and transmit such warrant to the county treasurer, and notice to the county clerk thereof. At the same time the county treasurer shall pay to the State all moneys collected and due from their respective counties to the State, as shown by such account so rendered by the Auditor General to be due the State: *Provided*, That on January fifteenth, and each thirty days thereafter until the regular quarterly settlement for the quarter ending March thirty-first shall have been made each year, the county treasurer shall pay to the State all moneys coming into his hands from the collection of said State tax. The county treasurer of each county shall, on or before the first day of February, May, August and November in each year, make out a detailed statement of the account between the county and the several townships or cities, which statement shall show the different funds to which the several debits and credits belong, and render the same to the township or city treasurer, and pay all moneys shown by said statement so rendered to the township or city to the proper receiving officer of the township or city, and notify the township or city clerk of the items and total amount thereof; also a description of the lands upon which such taxes were paid. The county clerk shall charge such amounts to the county treasurer, and the township or city clerks shall charge such amount to the town-

Auditor General's quarterly statement.

Payments to county, etc.

Payment to State.

Proviso.

Accounts between county and townships.

Duties of county and township clerks.

ship or city treasurers on the books of their respective offices: *Provided*, That in the county of Kent the county treasurer shall not be required to make a detailed statement. Proviso.

When Auditor General pays county money to county treasurer the county must be regarded against all others than the treasurer as having received it.—Roscommon v. Midland Supervisors, 49 M. 454. Mandamus does not lie to compel the Auditor General to pay over to a county money which has been withheld from it in the periodical settlements under a mutual mistake of law. Where money has gone in to the State treasury as part of a general balance rightfully received, and not as a separate and independent item wrongfully received, mandamus will not lie to require its re-payment, nor can any suit be maintained for it unless voluntarily allowed within the authority of some proper officer. When a State sues it is limited in its recovery by any defenses that might be set up by individual plaintiffs. A state cannot be sued in its own courts without its own consent; nor can any suit that is really against the State be maintained against a State officer. Executive discretion cannot be judicially reviewed; and where the action of any officer to whom the State confides the auditing of claims against it is anything but ministerial it cannot be reviewed.—Ambler v. Auditor General, 38 M. 746.

In controversy between the State and a county growing out of tax proceedings the State, while represented by the Auditor General, is the real party in interest, and in the legal positions taken speaks through the Attorney General and the county speaks by the board of supervisors. There should be no effort to obtain an unjust advantage by one over the other, and courts will not allow such a thing to be done, but will apply the rule of justice and equity in its broadest sense to the matters of difference between such parties. The proceeding by mandamus to which the parties are compelled to resort in such cases can only be taken in the court of last resort, to which the largest discretion is given; and the court may in its discretion refuse the writ unless the applicant consents to do equity.—Auditor General v. Saginaw Co. Supervisors, 62 M. 579. See Haines v. Supervisors of Co. of Saginaw, 87 M. 237; 99 M. 32. Counties not estopped by settlements from asking that illegal charges be stricken from account sought to be enforced by mandamus.—Auditor General v. Midland Supervisors, 84 M. 121. In mandamus proceeding to compel county to collect and pay indebtedness to State, county cannot set off moneys previously paid to the State in excess of amount legally demandable. Where the petition in such case states the account between the State and the county from a specified date, the county may contest the validity of any of the items embraced within the account, although a balance shown to be due to the State at a subsequent date was paid by the county.—County cannot refuse to pay over State tax on the ground that apportionment to it included territory detached and organized into another county, but must look to the new county for reimbursement. Pay of State troops in aid of civil authorities, 1623 C. L. '97, a proper charge to the county.—Auditor General v. Bay Co. Supervisors, 106 M. 662.

County treasurer cannot refuse payment to State treasurer of State taxes collected on ground that county claims to have money due it from the State, and he will not be protected by action of board of supervisors directing non-payment. County treasurer in collecting State tax acts for the State, and board of supervisors has no control over the money thus collected, and he cannot commingle the account of the State tax collected with the account between the county and the State.—Auditor General v. Tuscola Co. Treasurer, 73 M. 28. In petition for mandamus to compel levy of tax to pay amount due State, respondent claims amount alleged to be due county as an offset. Held in nature of assumpsit and an irregular form of action against the State which cannot be maintained.—Auditor General v. Grand Traverse Supervisors, 73 M. 182.

Held proper to charge counties interest upon taxes charged back to the county; upon items erroneously credited to county and afterwards charged back; upon moneys paid for the use of the county for the benefit of deaf, dumb or blind, and upon periodical balances due from the county.—Auditor General v. Shiawassee Supervisors, 74 M. 536. Auditor General cannot open account with township but only with county.—Mandamus will not lie to compel payment by Auditor General of redemption of township taxes when during the period covered the county has been indebted to the State.—Ottawa Supervisors v. Auditor General, 69 M. 1.

County treasurer has no right to retain out of money admittedly due a city a sum equal to the delinquent personal taxes due the county for which he has issued his warrant to the city treasurer to collect.—City of Muskegon v. Soderberg, 111 M. 539. Mandamus will not lie to compel payment by county to township of moneys claimed to be due for taxes received from Auditor General and others when the account between the county and township has not been stated and no settlement has been made showing the state of account; but in such case assumpsit could be maintained by township to ascertain the amount due.—Township of Cumming v. Ogemaw Co., 93 M. 314; see also 100 M. 567. Failure of board of supervisors to have a deficiency occasioned by default of township treasurer added to the next year's tax does not affect the right of the county to charge the deficit to the township.—Oceana Co. v. Hart Township, 48 M. 319.

County liable for interest on balances.—Auditor General v. Ottawa Supervisors, 76 M. 295. Township, school district and road district taxes should

be accounted for by the county to which the returns were made, and with the respective townships and districts for which they were levied.—Clare Co. v. Auditor General, 41 M. 182.
See Sec. 42.

Report of tax payments and sales.

SEC. 88. (3911) The Auditor General shall, on the first Monday in each month, transmit to the treasurer of each county a list of the lands therein upon which the taxes have been paid to the State Treasurer, and also a list of all lands bid in to the State which have been sold during the preceding month, and upon receiving such lists the county treasurer shall make the proper entries showing such payment or sale. Where a sale has been made by the Auditor General the county treasurer shall note the fact upon the tax record.

County treasurer to note sales on Tax Record.

See Sec. 84.

Interest and collection fee.

SEC. 89. (3912) Am. Act 262 of 1899. To all taxes unpaid on the first day of March next after their assessment there shall be added interest at the rate of one per cent per month or fraction thereof, and to all taxes returned to the county treasurer there shall also be added a collection fee of four per cent. Such interest and collection fee shall be collected with such taxes, and the interest and taxes to be paid to the State, county and township, in proportion to their several rights therein. The collection fee paid to the county treasurer shall belong to the general fund of the county, and that paid to the Auditor General shall belong to the general fund of the State. No other charges shall be added to any taxes voluntarily paid either to the township treasurer, the county treasurer or the State Treasurer, except the expense after it accrues under section fifty-nine of this act.

Part of public funds.

Accrued expense.

Collection fee paid to county treasurer on sales or redemptions belongs to county.—Auditor General v. Bay Supervisors, 106 M. 662.

Compensation of officers.

SEC. 90. (3913) All compensation of officers in the assessment and collection of taxes in townships and in the return of delinquent taxes to the county treasurer, except fees collected by township treasurers on their tax rolls, shall be paid by the township. All compensation of county officers and expense incurred by them under the provisions of this act shall be paid by the county, and the compensation of all State officers and expenses by them incurred or paid, shall be paid by the State. Expenses made by the State officers shall be audited by the Auditor General and paid out of the general fund.

As to compensation of county officer whose annual salary has been fixed by board of supervisors see People v. Board of Auditors, 13 M. 233; Stetson v. Supervisors of Calhoun Co., 36 M. 10. Board of supervisors may include in compensation of county treasurer amount received for office charges on payment.—Munger v. Clerk of Board of Supervisors, 38 M. 307. Collection fee may be made part of compensation of county treasurer by board of supervisors.—People v. Reigel, 6 Dot. Leg. News 61.

The tax law prescribed the major part of county treasurer's duties and every change in or amendment to that law does not create an implied obligation to pay extra compensation for the new duties thereby imposed.—Backus v. County Treasurer, 99 M. 218. Compensation of county treasurer, 2542 C. L. '97; of prosecuting attorney.—2562 C. L. '97, see also 2649 C. L. '97; of county clerk.—2576 C. L. '97.
See Sec. 110.

SEC. 91. (3914) All losses that may be sustained by the default of any township officer in the discharge of any duty imposed by this act, shall be chargeable to such township. All losses by default of any county officer shall be chargeable to such county, and all losses by default of any State officer shall be chargeable to the State. Losses by default in discharge of duty.

Assessors will remember that any failure to perform the duties imposed upon them by the tax law will not be borne by the State but eventually, if not immediately, the loss falls upon their own township.
One item occasioning much loss is the return of land erroneously described, and in large part this expense would be avoided by the rejection of such descriptions by county treasurers when they receive and compare the township treasurer's return, as provided in Sec. 55.

MISCELLANEOUS PROVISIONS.

SEC. 92. (3915) The Commissioner of the State Land Office shall, during the month of March in each year, furnish to the several county treasurers a list of all part paid State lands, and also of all licensed homestead lands that have been licensed for a term of five years and over, and upon which patents have not been issued, together with the date of each license and the name of the licensee, in their counties respectively, and such treasurers shall, on or before the tenth day of April next thereafter, cause to be delivered to the supervisor of each township affected thereby an accurate description of all such lands in his township, with the names of the persons holding the same. Part paid State lands. Licensed homestead lands. Lists to be furnished to supervisors.

Commissioner to furnish county treasurers each year in time for assessment lists of swamp lands patented as provided in 1512 C. L. '97; and such lands shall be subject to assessment and taxation as other assessable and taxable lands.—1513 C. L. '97. County treasurer to furnish lists to supervisors. See also 1386 C. L. '97.

SEC. 93. (3916) Every county treasurer shall, before entering upon the duties of his office, execute to the Auditor General a bond, in such sum as the said Auditor General shall direct, with three or more sureties, to be approved by the prosecuting attorney, judge of probate, and the county clerk of the proper county, or any two of them and the Auditor General, conditioned that such treasurer, his deputy, and all persons employed in his office, shall render a just and true account of all moneys received by him or them belonging to the State, and that he or they shall faithfully and promptly pay to the State Treasurer all such moneys received as aforesaid according to law, which bond shall be filed in the office of the Auditor General. Whenever the Auditor General shall deem proper, he may require of the county treasurer a new bond with surety or sureties to be approved as aforesaid, and for such sum as he may deem necessary, and if the county treasurer from whom a new bond shall be so required shall not execute such a bond within ten days after he shall have received notice of such requirement, such failure may be deemed sufficient cause for the removal from office of such treasurer. County treasurer's bond. Who to approve. Conditions. Auditor General may require new bond. Cause for removal of county treasurer.

Deputy county treasurer—2536 C. L. '97. Fraud or embezzlement in office of county treasurer.—11563-5, 11612-14 C. L. '97. Sureties to justify.—159-61 C. L.

'97. Sureties disqualified from approving bond.—Stevenson v. Bay City, 36 M. 44.

Delivery of bond to Auditor General is in law a part of its execution.—Endorsement of Deputy Auditor General has same force and validity as if signed by Auditor General himself and shows approval and acceptance by Auditor General. An obligation having been incurred under bond that had not been properly approved, but otherwise in compliance with requirements of the statute, neither the county treasurer nor his sureties can be heard to insist upon such approval for the purpose of defeating their liability.—People v. Johr, 22 M. 461. See Sec. 94.

County treasurer's bond is cumulative security to the State for the proper performance of such duties to the State as are imposed upon him by the general tax law.—Attorney General v. Supervisors of St. Clair Co., 30 M. 388. County treasurers are responsible as debtors and not as bailees merely for the county funds to come into their hands and their liability is absolute and not affected by unavoidable loss or accident.—Perley v. Co. of Muskegon, 32 M. 132.

Where a bond is given to a public officer under statutory requirements, the official obligee is invested with a legal interest, and is the proper plaintiff in a suit to enforce its provisions and penalties. Public officers have capacity to sue commensurate with their public trusts and duties and need no statutory authorization.—Berrien Co. Treasurer v. Bunbury, 45 M. 79.

Employment of other person to conduct sales, when.

SEC. 94. (3917) In case the said county treasurer shall refuse or neglect to execute and file any such bond at the time and in the manner aforesaid, the Auditor General shall employ, in behalf of the State, some other person to conduct the sales of lands delinquent for taxes, and to receive payment therefor, under his direction, upon such person executing and filing with the said Auditor General, a similar bond with sureties as above mentioned, to be by him approved, conditioned for the faithful and prompt payment to the State Treasurer of all moneys which may come into his hands as the proceeds of such sales or otherwise, and a reasonable compensation for the services of such person shall be allowed and paid out of said proceeds.

Bond.

Conditions.

Compensation.

When bond is not properly approved it is the duty of the Auditor General to refuse it and to decline to allow the county treasurer to make the tax sale.—People v. Johr, 22 M. 461.

Authority to withhold from sale.

SEC. 95. (3918) If the Auditor General shall discover before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and if the error originated with the township or county officers the amount of such taxes shall be charged against the county from which the same was returned; if such error was made by a township officer the amount thereof shall be charged by the county treasurer to the township in which such error occurred. If there has been a change in the boundaries of any county or town in which the lands are situated after the return of such taxes, such rejected taxes shall be charged to the county to which the lands belong at the time of such rejection.

Taxes charged county and townships, when.

Change in boundaries.

The county is responsible to the State for the regularity of taxes returned, and in case any tax is found to be illegal and set aside by the proper State authority in the manner pointed out by law it is charged back to the county and the county is bound to make it good.—Auditor General v. Supervisors Monroe Co., 36 M. 71.

No outlawry as between State and county or between county and township. A township liable to the county for taxes rejected by the Auditor General is also liable for the interest legally chargeable to the county on such taxes.—Mason v. Hazelton Township, 82 M. 440.

Unauthorized charging back by clerk in Auditor General's department held not to be an abandonment of the petition for sale or of the right to a rehearing.—Auditor General v. Kanaar, 114 M. 602. Auditor General shall not cancel taxes assessed on railroad lands patented to land grant railroad companies unless upon decree of supreme court.—3977 C. L. '97.

The State is not authorized to charge back to the county because of injunction taxes returned delinquent until they have been rejected or held invalid by some competent authority; but where Auditor General has authority to reject them and does so for adequate causes the fact that he did not wait for a decree would not be important.—Auditor General v. Supervisors of Monroe Co., 36 M. 71. When exempt lands have been taxed Auditor General may reject taxes on his own motion, and may be compelled to do so by mandamus.—People ex rel. Throop v. Auditor General, 9 M. 134. The action of the Auditor General in charging back to a county certain taxes in the settlement with the county being the exercise of an official discretion belonging to an executive department of the State government is not subject to judicial review and cannot therefore be examined upon certiorari.—Supervisors of Midland Co. v. Auditor General, 27 M. 165. Taxes rejected by adjudication of court for want of lawful equalization may be charged back and reassessed as well as those rejected by the Auditor General.—Auditor General v. Gurney, 109 M. 472.

Provision contemplates rejection and annuling of the taxes, leaving them no longer in existence for any purpose.—No taxes can be charged back without putting an end to them.—People ex rel. Throop v. Auditor General, 9 M. 134. But see Sec. 96 for provision for reassessing.

Auditor General properly rejected taxes which were not lawfully imposed.—Chippewa Supervisors v. Auditor General, 65 M. 408.

See Secs. 73, 98.

Statement of rejected taxes.

SEC. 96. (3919) The Auditor General shall prepare and forward to the county treasurer a statement of such rejected taxes, and a description of the lands upon which the same were assessed; and such county treasurer shall lay the same before the board of supervisors at their next session thereafter, and if such taxes shall have been rejected or charged back by the Auditor General, except for the reason that such land was not subject to taxation at the time of assessment for such taxes, or that the taxes thereon had been paid, or that there had been a double assessment thereof, the board of supervisors shall cause the same to be reassessed upon the same land, and collected with the taxes of the then current year, and in the same manner. If such taxes cannot be properly reassessed upon the same lands, the board of supervisors shall cause the same to be reassessed upon the taxable property of the proper township.

Reassessment of rejected taxes.

Change of title no bar to reassessment.—Cooley on Taxation 311. Taxes charged back are to be reassessed upon the same lands if rejected for mere informality or upon the whole township if absolutely illegal.—People ex rel. Throop v. Auditor General, 9 M. 134. Reassessments must be made in accordance with the law in force without reference to the law as it stood when the original assessment was made.—Brevoort v. Detroit, 24 M. 322. If tax is originally void by reason of having been levied for illegal purpose, it is not subject to reassessment; but a judicial decision against the first assessment; based on errors and defects merely is no bar to reassessment.—Cooley on Taxation 312. Reassessment is a continuing power, not exhausted until an assessment is made which can be enforced.—Brevoort v. Detroit, 24 M. 322. But the charged-back list should be acted upon at the next session after its receipt by county treasurer, and if reassessment is not made in "the then current year," its validity is at least questionable.

In reassessing taxes upon the same land, the same details as to acreage, items of tax, etc., must be distinctly given as in the original assessment, and the reassessment must specify the year for which the taxes reassessed were first assessed; but no interest or other charges not included in the original assessment can be added in reassessment.

Reassessment for local improvement, see French v. Common Council of Lansing, 30 M. 379. In Brevoort v. Detroit, 24 M. 322, a legislative act provided for a new assessment in certain cases where former assessment had been vacated or held invalid. Held if the difficulty was that the sums assessed did not constitute any just or equitable charge for public purposes upon the property upon which it was sought to be imposed, it is quite clear that the legislature could not make it such a charge; but if the defect consisted of some irregularity of proceeding in consequence of which a just and equitable claim has failed to be legally imposed there can be no good reason why the legislature should not retrospectively supply the oversight or cure the irregularity. In Byram v. Detroit, 50 M. 56, held that the legislature can authorize reassessment of paving tax to pay for work done in good faith where previous assessment therefor had been held void.

In Mariette Township v. Smith, Mich. Mandamus Cases 135, mandamus was denied to compel respondent (county treasurer) to pay over certain moneys claimed to be due the township, it appearing that certain taxes

charged back by Auditor General had been ordered reassessed, the township declining to make the assessment and the amount remaining charged against the township.

As to reassessment of drain taxes charged to county see Mason v. New Haven Township, 82 M. 435; Mason v. Hazleton Township, 82 M. 440. Further as to reassessment see Tweed v. Metcalf, 4 M. 579.

Detached lands.

SEC. 97. (3920) It shall be the duty of the board of supervisors to furnish to the Auditor General a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the Auditor General shall thereupon credit to such county the amount which he may have so far charged back, and charge the same to the county in which such lands may then be situated: *Provided*, Such taxes shall not have been previously paid or reassessed.

Proviso.

Errors discovered before conveyance.

SEC. 98. Am. Act 154 of 1895. (3921) Am. Act 262 of 1899. Whenever any lands returned to the office of the Auditor General, or to the county treasurer during the life of the tax law of eighteen hundred ninety-one, shall have been sold on account of non-payment of taxes thereon, if the Auditor General shall discover, before a conveyance of said land is executed and delivered:

If not subject to taxation.

First, That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or

If taxes paid.

Second, That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or

Illegal sales.

Third, That such sale was in contravention of any of the provisions of this act; or

If certificate of "no taxes."

Fourth, That a certificate that no taxes were charged against said lands has been given by the proper officer, within the time limited by law for the payment or redemption thereof,

Conveyance withheld.

the Auditor General shall withhold a conveyance of such lands, and shall, on demand, cause the money paid therefor to be refunded to the purchaser, with interest thereon at six per cent per annum: *Provided*, That in the last mentioned case the person in whose behalf such certificate was given shall, at the time of presenting such certificate to the Auditor General, pay to the State Treasurer, on the statement of the Auditor General, all taxes and charges due to the State upon such land at the time such certificate was issued. If the discovery is not made until after the conveyance has been executed and delivered, a certificate of error may be issued in proper form for record; and the deed, if not recorded, shall be surrendered when the purchase money is refunded. If the deed has been recorded the money shall be refunded on a recorded release from the holder of the tax deed.

Proviso.

Certificate of error.

Refunding on release.

In People ex rel. Sweet v. Adam, Auditor General, 3 M. 427, the court held that the act of 1843, containing the same provision as this section, conferred upon the Auditor General judicial powers into the proper exercise of which the court cannot inquire on motion for mandamus, and that if the relator was dissatisfied his remedy was certiorari.

Mandamus is the proper remedy to compel Auditor General to issue a

certificate of error and to determine the validity of his reasons for refusal.—Hubbard v. Auditor General, 6 Det. Leg. News 258. Mandamus will not lie to compel a State officer to perform any but an unquestionable and legally defined duty.—Bresler v. Butler, 60 M. 40.

SUB. 2. A sale for taxes for a year in which it was shown the tax was twice assessed and once paid is invalid.—Rayner v. Lee, 20 M. 384. Where taxes had been paid before sale on part of the land returned, Auditor General properly withheld conveyance of the entire description, which had been returned and sold without excepting the part on which the taxes were paid.—Kneeland v. Auditor General, 113 M. 63. Certificate of error properly introduced in evidence to show deed had been canceled.—Wood v. Bigelow, 115 M. 123. Certificate was issued by Auditor General on presentation of receipt showing taxes paid before sale. Purchaser refused to recognize certificate and brought action of ejectment. Defendants had verdict below. Affirmed.

Payment of taxes may be proved by parol.—Hammond v. Hannin, 21 M. 374. Where a city council assuming the invalidity of a sidewalk tax for a certain year ordered the tax reassessed in the following year and the land was sold for the taxes of both years, and the owner in due season sought to redeem from the second sale, the Auditor General was justified in canceling the former sale and issuing a certificate of error.—Youngs v. Auditor General, 118 M. 550.

SUB. 3. No title can be valid which is acquired against law.—Attorney General v. Smith, 31 M. 359. Where there is a discrepancy between the description in the recorded plat and that in the tax deed, a certificate of error canceling the deed may be issued.—Jackson v. Sloman, 117 M. 126. Attempts to buy off outstanding claims do not necessarily admit their validity.—Chapin v. Hunt, 40 M. 595.

Sale under void publication is made in contravention, etc., within the meaning of Sub. 3. It would not be contended that if relator's deed was held void by some court that he would not be entitled to have his money refunded. Neither will it be contended but what it would be the duty of a court to hold it void in a proper proceeding. We do not see how any good purpose can be served in requiring such a proceeding to be brought before the relator could obtain his money.—Gurd v. Auditor General, 6 Det. Leg. News 668.

A land owner held not estopped by the entry of a decree in proceedings instituted by him attacking the validity of a decree entered in tax proceedings from testing the validity of a sale made by the Auditor General subsequent to the decree.—Conley v. Auditor General, 6 Det. Leg. News 947.

SUB. 4. Where owner had written county treasurer to ascertain amount of his taxes and on receiving reply stating that all his taxes were paid except on a designated parcel had paid the amount stated, the Auditor General was warranted in refusing to convey to an applicant a parcel sold for unpaid taxes which were payable when the county treasurer had advised the owner as above. Owner having called for and paid all demanded cannot lose land by mistake of officer.—Hand v. Auditor General, 112 M. 599. Where owner in reliance upon statement furnished by city treasurer pays the amount of tax shown, land cannot be sold for taxes which failed of payment because of such misstatement.—Hough v Auditor General, 116 M. 663. Certificate of error ordered issued where it was made to appear that owner had failed to pay relying on certificate of county treasurer that the taxes had been paid.—Carpenter v. Jones, 117 M. 91. Defense that owner was prevented from paying taxes by statement of officer that no taxes were due cannot be interposed to a bill in equity filed by purchaser under tax decree. Owner must avail himself of his statutory remedy (as provided in above section or in Sec. 70).—Kneeland v. Hyman, 118 M. 56; Kneeland v. Wood, 117 M. 174.

No limit of time is fixed within which Auditor General may issue certificate of error as provided in above section. Certificate may be issued whenever showing is made and Auditor General may satisfy himself by any competent proof.—Kneeland v. Wood, 117 M. 174. There is no equity in seeking to avoid both lien and debt.—Waldron v. Murphy, 40 M. 668.

Irregularities not prejudicial to property rights of owner shall not invalidate tax.

SEC. 99. (3922) No tax assessed upon any property, or sale therefor, shall be held invalid by any court of this State on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, or omission, or want of any matter of form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed; and all proceedings in assessing and levying taxes and in the sale and conveyance therefor, shall be presumed by all the courts of this State to be legal,

Records etc. evidence.

Absence or omission of records, etc.

Regularity presumed.

Signing of records, etc.

Auditor General's deed unimpeachable.

until the contrary is affirmatively shown. All records, statements and certificates herein provided for shall be *prima facie* evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding, or of mention of any matter in any statement or certificate that should appear therein under the provisions of any law of this State, shall not affect the validity of any proceeding, tax, or title depending thereon, provided the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act or any other law of this State. No tax, or sale of property for any tax, shall be rendered or held invalid by showing that any record, statement, certificate, affidavit, paper or return cannot be found in the proper office; and unless the contrary is affirmatively shown, the presumption shall be that such record was made, and such certificate, statement, affidavit, paper or return was duly made and filed. Where any statement, certificate, or record is required to be made or signed by a school district board or a township board, such statement, certificate or record may be made and signed by the members of such boards, or a majority thereof, and it shall not be necessary that other members be present when each signs the same. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the Auditor General under the provisions of this act, but such deed shall be held absolute and conclusive as herein provided.

Curative statutes can never cure want of jurisdiction.—Hart v. Henderson, 17 M. 222; Township of Caledonia v. Rose, 94 M. 216. But only provides that irregularities or omissions which are not jurisdictional and do not prejudice the property owner will not void tax or sale.—Auditor General v. Keweenaw Ass'n, 107 M. 405. Irregularities that do not avoid sales.—See notes and cases at 9129 C. L. '97.

No act legalizing any tax or assessment or any tax or assessment roll shall be construed as legalizing any defect not distinctly set forth in the act.—3985 C. L. '97. Section does not relieve against defects which go to the jurisdiction of the body authorizing the levy.—Auditor General v. D. S. S. & A. Railway Co., 116 M. 122.

REVIEW: When no changes have been made by the board of review in the assessment roll prepared by the supervisor the roll is not rendered invalid because the board of review have not written the figures of the assessor in the columns prepared for that purpose.—Ball v. Ridge Copper Co., 118 M. 7. Where there is no claim that a board of review acted fraudulently in assessing land and there is sufficient testimony to support the finding of the lower court that the board did not act illegally or inequitably in fixing such assessment, the finding will not be disturbed.—Aurora Iron Mining Co. v. City of Ironwood, 5 Det. Leg. News 828.

While the board of review have no right to change values after the time provided by law, yet in the absence of proof that the board actually acted on question of value after the lawful time, the mere fact that the clerical work of setting down such values in the proper column was not completed during a meeting of the board will not render the tax invalid.—The date of the certificate of the board of review attached to the roll is not important as bearing upon the question of the validity of the taxes.—Auditor General v. Ayer, 6 Det. Leg. News 688.

APPORTIONMENT: Where charter requires council to apportion tax among wards and council instructed supervisors with assistance of recorder to make apportionment, held that to invalidate it must be shown that injury resulted to the person assessed.—Fay v. Wood, 65 M. 390. Form of record of apportionment is sufficient if it appears that just share is distributed among townships.—Boyce v. Sebring, 66 M. 210. Omission of signature of chairman and clerk to record of proceedings may be supplied by them during their then term of office.—Record of proceedings of board of supervisors which does not specifically show apportionment of State tax in record of report thereon is sufficient if defect is supplied by the report as a whole.—Resolution "that there be levied on the taxable property of county for county purposes a tax of 1¼ per cent on the valuation of the several rolls of said county, making

a total county tax of $—— (amount given)," does not affect validity of tax where it does not appear that this was the only action or record on the subject, though the sufficiency is questionable.—Boyce v. Auditor General, 90 M. 214. Resolution providing that a specified amount of State and county tax should be assessed on rolls of the several townships, naming them and placing opposite the name of each the amount to be assessed and giving total of said taxes respectively, was sufficient compliance with the statute, it not being shown that the apportionment was unequal.—Hoffman v. Lynburn, 104 M. 494.

EQUALIZATION: Committee to equalize the assessment rolls reported to board; report adopted. Held made action of committee that of board and was sufficient.—Tabulated record of assessment in all townships, showing amount added to or deducted from in equalizing, followed by aggregate of both real and personal property plus amount added or minus amount deducted, followed by final totals, held sufficiently definite.—Boyce v. Sebring, 66 M. 210. Where record of equalization shows only entry of the aggregate valuation of real and personal property of each township as determined by the board, the presumption is that no additions or deductions were found necessary or made.—Chamberlain v. City of St. Ignace, 92 M. 332; Goudreau v. City of St. Ignace; Brooks v. same; Orth v. same, 97 M. 413. Failure of clerk of board of supervisors to sign record of equalization and apportionment will not affect validity of township and school taxes.—Clerk of county and of board when record of equalization was made was deputy county clerk at time of trial, and rights of third parties had not intervened; Held proper to permit to amend the record by affixing the omitted signature.—Sheldon v. Marion, 101 M. 256. Where record of equalization shows aggregate real estate as assessed in each township and amount of personalty and whole amount of taxable property as equalized, and nothing to indicate that equalization was based on aggregate of real and personal or that it was not based on the realty alone, it will be presumed that it was based solely on the realty.—Where record shows amount of real estate assessed, amount of assessed personalty and the amount of taxable property as equalized, and the amount added to or deducted can be readily ascertained by computation, held sufficient compliance with the statute.—Auditor General v. Ayer, 109 M. 694. Where supervisors add to or deduct from valuation of real estate without reference to total taxable property, held sufficient.—Auditor General v. Longyear, 110 M. 223. Where record of equalization shows total valuation of property as assessed and total as equalized, the fact that valuation of personal property and real property are not separately entered will not destroy the presumption that additions or deductions were upon real property; and absence of dollar sign in record does not invalidate where the figures are separated in such manner as to indicate dollars and cents.—Auditor General v. Sparrow, 116 M. 574. The record failing to show that board of supervisors changed values, the fact that it did not show the additions and deductions made in equalizing does not make the record insufficient.—Auditor General v. Ayer, 6 Det. Leg. News 683.

ROLL AND WARRANT: Special tax placed in separate column on tax roll does not entitle any one to complain, as no rights could possibly be prejudiced thereby.—Wall v. Trumbull, 16 M. 228. Objection that there is no dollar mark opposite the valuation and that the figures are so written as to be divided by a red line so as to leave an uncertainty as to the amount is not well taken where the amount of the taxes are properly carried out.—First National Bank of St. Joseph v. Township of St. Joseph, 46 M. 526. See also Bird v. Perkins, 33 M. 28. The fact that headings of pages of tax roll were not filled out with name of township and county does no invalidate roll where names of township and county were printed on outside of book.—Auditor General v. Keweenaw Ass'n, 107 M. 405. Tax roll not invalidated by fact that supervisor's warrant directs the payment of the 1 per cent which he is authorized to add to avoid fractions to reimburse a delinquency of the former year growing out of an error in not adding a sufficient amount of percentage.—Grand Rapids v. Welleman, 85 M. 234. The fact that the collector used the original tax roll instead of a copy as the Muskegon charter required, and that the treasurer failed to verify his statement of uncollected taxes within the time specified, does not defeat the taxes in the absence of any showing that they were unjust.—Auditor General v. Hutchinson, 113 M. 245. Failure of assessing officer to prepare assessment and tax roll in exact form prescribed by statute, in that taxes were spread on tax roll instead of on assessment roll, did not prejudice property rights of taxpayers, and defect is cured by Sec. 99.—Ludington v. City of Escanaba, 115 M. 288. The fact that no warrant was attached to tax roll by supervisor held not to render the taxes invalid or discharge the lien.—Auditor General v. Sparrow, 116 M. 574. Warrant not defective if made to township treasurer by title and name omitted.—Loud & Sons Lumber Co. v. Hagar, 118 M. 452.

Where tax roll showed error in aggregate of taxes opposite certain parcel, which county treasurer corrected before sale, held that as this could not injure the owner it must be disregarded.—Case v. Dean, 16 M. 12. But this holding should not be understood as giving county treasurer authority to make changes in the roll or Tax Record.

Where tax roll described land as "T. 6 R. 6" and there was but one T. 6 R. 6 in the township, description held sufficient.—Dumphy v. Auditor General, 6 Det. Leg. News 1045. In West Michigan Lumber Co. v. Dean, 73 M. 459, supervisor attached warrant to original equalized assessment roll and delivered it to the treasurer. Held, that it conferred authority to seize property to satisfy tax.

STATUTORY TIME—RETURNS: The proceedings required by law and the filing of the treasurer's bond having taken place after the time desig-

nated by law, but before the time required for the handing over of the assessment roll; Held, that the delay was immaterial. Delay beyond the time required by law in appending the warrant to the assessment roll furnish no ground of relief.—Hubbard v. Winsor, 15 M. 146.

Statutory time for doing an act is directory where time is not fixed for purpose of giving a party a hearing or for some purpose important to him.—Fay v. Wood, 65 M. 390. A tax title is not invalidated merely by the township treasurer's neglect to file his bond as collector of State and county taxes within the prescribed time, if it appears that he actually filed his bond and received the tax roll, and that his right to it had not been contested.—A tax title is not invalid merely because the original return from the township treasurer to the county treasurer had been sent to the capitol instead of being retained in the county treasurer's office as it should have been.—Stockle v. Silsbee, 41 M. 615. Where the township treasurer's return does not show that demand was made for taxes but is in statutory form, held sufficient, as if personal demand was necessary it must be presumed to have been made.—Dickison v. Reynolds, 48 M. 159. Failure of county treasurer to enter delinquent list on books does not invalidate the tax if the delinquent list was put in permanent form and preserved in county treasurer's office.—Auditor General v. Keweenaw Ass'n, 107 M. 405. Failure of collector to make statement under oath of all moneys received by him as collector does not render proceedings to sell void; such oath is required to secure an accurate accounting of all moneys in collector's hands and has no reference to the return of land for delinquent taxes.—Tweed v. Metcalf, 4 M. 579. Failure to make such statement does not prejudice taxpayer.—Boyce v. Stevens, 86 M. 549.

IRREGULARITIES: An irregularity is such a defect in legal proceedings as may be waived; a nullity is one that cannot.—Jenness v. Lapeer Circuit Judge, 42 M. 469. A blunder that is so evident as to correct itself not entitled to consideration.—Smith v. Lloyd, 29 M. 381. Objection based on manifest clerical error which corrects itself held frivolous; justice ought not to stumble at straws.—Peck v. Houghtaling, 35 M. 126. One cannot complain of an error in his favor.—Kelso v. Saxton, 40 M. 666. The party alleging error must show error to his prejudice.—Louden v. E. Saginaw, 41 M. 18. Error will not be presumed; it must be affirmatively made out.—People v. Scott, 56 M. 154. Irregularities in assessment when not prejudicial to protestant give no right of recovery.—White v. Millbrook, 60 M. 532. The time has gone by if it ever was when the proceedings of taxing officers are to be criticized with microscopic nicety and the exact time and method of every step examined to detect a departure from the law, however insignificant or unintentional. It is probable that in no tax case have all the proceedings been exactly and punctiliously correct, but they are sufficiently so for legal purposes in any case if no error is committed which can prejudice the person taxed.—Stockle v. Silsbee, 41 M. 615. In matter of descriptions see Johnstone v. Scott, 11 M. 232; Wright v. Dunham, 13 M. 414; Bird v. Perkins, 33 M. 28; Wilt v. Cutler, 38 M. 189.

Irregularities in assessment do not defeat a tax if they do not prejudice the person taxed.—Stockle v. Silsbee, 41 M. 615. Irregularities in the prior proceedings which do not prejudice the property rights of the person whose land is taxed will not defeat the claim of the State. Thus, it is no defense to an entry of a decree against the land that the warrant was annexed to the tax roll delivered to the collecting officer; that the return of the delinquent taxes was not verified; or that a majority of the board of review did not sign the certificate attached to the assessment roll.—Auditor General v. Sparrow, 116 M. 574. Any irregularity or omission in the proceedings to levy or collect a tax which is not jurisdictional and does not prejudice the rights of the property owner will not render the tax invalid. It not being shown that the respondent had any personal property in the township, its rights were not prejudiced by omission of word "unknown" in assessment roll.—Auditor General v. Keweenaw Association, 107 M. 405.

MISNOMER: It does not mislead real owner.—Fletcher v. Post, 104 M. 424. Tax not invalid because assessed in name of other than owner.—Auditor General v. Keweenaw Ass'n, 107 M. 405. Assessment against "Ellen Marcier" instead of "Ellen Macier" held within the rule of idem sonans and not to invalidate the tax.—City of Detroit v. Macier, 117 M. 76. Land assessed to "H. M. Loud & Sons" instead of proper name of corporation; Held, would not render tax invalid and would authorize levy upon personal property of corporation.—Loud & Sons Lumber Co. v. Hagar, 118 M. 452. Tax assessed by initials of corporate title to resident corporation who owned and occupied the property is not invalid because not assessed to full name.—Lumber Co. v. Village of Oscoda, 97 M. 221.

RECORDS, FILES, ETC.: Auditor General may require copies gratis.—11238 C. L. '97. Records are public property; penalty for mutilation or wrongfully retaining.—11361 C. L. '97. Restoration of lost records.—10276 e. s. C. L. '97. Absence of records in town books showing assessors were sworn does not furnish prima facie evidence that they were not.—Sibley v. Smith, 2 M. 486. Objected to record of proceedings of supervisors that it did not show who constituted the board nor that a quorum was present; Held, presence of supervisors or at least a quorum would be presumed.—Lacy v. Davis, 4 M. 140. Certificates to assessment roll are necessary only because they are required by statute; and the legislature may provide in express terms that a tax sale shall not be void for defect in or omission of the certificate. Whatever it may dispense with in advance it may retrospectively.—Sinclair v. Learned, 51 M. 335. See also Burt v. Auditor General, 29 M. 126. Where a sum of money has been lawfully voted to be raised by taxation for township purposes, the

failure of the board of supervisors to direct the levy would not invalidate the action of the supervisor in spreading it upon the roll.—Upton v. Kennedy, 36 M. 215. The real purport and effect of the statute is that sale shall not be void because return or other files or records are not found in the proper place, unless it is shown that such files or records never existed.—Upton v. Kennedy, 36 M. 215. The absence of official records from the places assigned by law for their keeping does not support the presumption that they never existed; the contrary is presumed.—Hogelskamp v. Weeks, 37 M. 422. As to time of making clerk's certificate to supervisors; when conclusive, etc.—Smith v. Crittenden, 16 M. 152. Where tax ordered by board of supervisors is not certified to by township clerk, burden is upon contestant to show that such tax was not originally authorized by competent authority.—Auditor General v. McArthur, 87 M. 457. "No tax or tax sale shall be held invalid" does not apply to warrant or to anything else except "tax" and "sale."—Muskegon v. Martin Lumber Co., 86 M. 625. Does not apply to proof of publication.—Benedict v. Auditor General, 104 M. 269. Record of equalization not invalid because of omission of dollar mark.—Auditor General v. Sparrow, 116 M. 574. A tax deed given upon a sale which included township and school taxes is not rendered invalid by showing that the board of supervisors did not direct any taxes for township or school purposes to be assessed in the township for that year.—Robbins v. Barron, 33 M. 124.

Writings are not admissible in evidence as public records without proof of their official character.—Hall v. People, 21 M. 456. Whenever the law requires written evidence of the action taken by officers in tax proceedings the record becomes the only legal and proper evidence of these facts; but this does not exclude entirely the usual presumption in favor of the regularity and honesty of official action.—Mills v. Township of Richland, 72 M. 100.

Tax sale not void because decree was not entered in record book of decrees and did not contain a description of the property.—Hooker v. Bond, 118 M. 255. Clerk's omission to record it does not invalidate a decree properly signed.—Hoffman v. Pack, Woods & Co., 6 Det. Leg. News 954.

The loss of papers relating to the proceedings on the Auditor General's petition will not in a collateral proceeding defeat the jurisdiction of the court or render void the decree.—Hoffman v. Pack, Woods & Co., 6 Det. Leg. News 954. Testimony of county treasurer and clerk, together with the record of accounts between those officials that contain items which must have been taken from the report, held sufficient to show that report of sale was filed.—Ibid.

Whenever, in the opinion of the board of supervisors of any county in this State, from the defaced or mutilated condition of any assessment rolls, returns of township treasurers, or other papers on file, under the provisions of law, in the office of the treasurer of such county, and for their better preservation, it shall be necessary that the same be copied or bound, or both, it shall be lawful and shall be the duty of such board of supervisors to authorize and order the copying or binding, or both, of such archives.—2508 C. L. '97. Whenever the board of supervisors of any county shall order the copying of any rolls or other papers, as provided in section one of this act, the treasurer of such county shall have the supervision of such work, and shall employ some proper person or persons to perform the same, who shall, before entering upon the discharge of such duty, subscribe an oath to perform the same in a true and faithful manner; and it shall be the duty of such county treasurer to compare all rolls or papers so copied, with the originals, and shall attach to each separate copy, roll or other paper, his certificate that the same is a true copy of the original roll or other paper, and that such copy was made by a person duly authorized under the provisions of law to make the same.—2509 C. L. '97. Any copy of any assessment roll, tax roll, township treasurer's return or other paper, made and certified under the provisions of this act, shall be valid and lawful as evidence in any court as the original would have been.—2510 C. L. '97.

Duties of prosecuting attorney.

SEC. 100. (3923) It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county treasurer, the township treasurers, and the supervisors of the county whenever they or any of them may deem it necessary for the proper discharge of the duties imposed upon them in this act free of charge.

See Sec. 90.

Deed to deceased person, etc.

SEC. 101. (3924) In all cases of sale of lands for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor General, to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed,

which deed shall vest the title in the heirs or devisees of such deceased person, in the same manner, liable to like claims of creditors and other persons as if the same had been executed to said deceased person immediately previous to his death, or the executor or administrator may assign the certificate of purchase and the deed may issue to the assignee thereof, and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any person deceased who, if living at the time of the execution thereof, would have been entitled thereto, shall have like effect as above provided.

Return of delinquent tax on homestead and part paid State lands.

SEC. 102. (3925) Am. Act 262 of 1899. The county treasurer shall, at the same time when he makes his return of delinquent lands to the Auditor General, make a similar return to the Commissioner of the State Land Office of all homestead and part paid State lands, the fee of which is in the State, the taxes upon which have not been collected, with a statement of the amount thereof. The Commissioner of the State Land Office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes thereon. The person holding such interest in any parcel of said lands shall, on or before the first day of July following such return, pay to the State Treasurer the taxes assessed thereon, with interest at the rate of one per cent per month or fraction thereof from the first day of March last preceding; and in default thereof the certificate of purchase of such parcel shall become void and such land shall be subject to sale and redemption in the same time and manner as lands forfeited for non-payment of interest; and no patent shall be made of such lands until all taxes thereon are paid.

Forfeiture for non-payment.

Report of taxes paid on State lands.

SEC. 103. (3926) The Commissioner of the State Land Office shall, on or before the first day of May and November in each year, make out and furnish to the Auditor General a statement containing a description of the lands upon which the taxes have been paid, and the amount of such payments, and shall, at the same time, transmit to each county treasurer a copy of such statement so far as the same relates to his county.

Credit of taxes.

The Auditor General shall credit to each county its proper part of such taxes, and the county treasurer shall credit each township with its share of such amount.

Lien for improvements.

SEC. 104. (3927) If any person dispossessed of lands purchased in pursuance of the provisions of this act shall have made improvements thereon, he shall be entitled to recover what such improvements are worth, and shall have a lien on such lands therefor, and may enforce the same by bill in equity where no other provision is made by law.

Sec. 10995 C. L. '97 relative to compensation for improvements in action of ejectment applies only to lands described in plaintiff's declaration and in the deeds or other instruments through which the defendant claims.—King v. Potter, 18 M. 134. County treasurer became purchaser at sale conducted by him; purchase held to be a nullity and purchaser not entitled to improvements made by him.—Clute v. Barron, 2 M. 192. Lien for improvements is to be enforced in supplementary proceeding in chancery.—Weimer v. Porter, 42 M. 569. Evidence of the value of improvements is properly excluded in

action of ejectment where defendant neglects to file a claim for compensation therefor under 10996 C. L. '97.—Newaygo Mfg. Co. v. Echtinaw, 81 M. 416.

Wanton expenditures for improvements not made in good faith.—McCreedie v. Buxton, 31 M. 383. Plaintiff having gone upon the land and made improvements with the knowledge that the title to the land was in the railway company, and that it claimed ownership, could not upon failure of his title recover the value of the improvements made.—When the rightful owner has obtained possession of the property without resorting to an action at law he is not liable in an action at law for the value of the improvements made by another. Sec. 10995 C. L. '97 applies only to action of ejectment.—Lemerand v. F. & P. M. R. R. Co., 117 M. 309.

Statutes allowing compensation for improvements when defendant in ejectment has been in possession, etc., cannot be invoked in behalf of one who entered as a tenant.—Wolf v. Holton, 92 M. 136. The fact that the occupant by exercising diligence might have discovered that he had no title does not necessarily negative good faith.—Petit v. F. & P. M. R. R. Co., 5 Det. Leg. News 889.

To enable defeated holder of tax title to enforce a lien for improvements the title must have been adjudged against him in a proper action. He must then resort to equity proceedings to have the amount of his lien determined, and its collection enforced. Statute of limitations does not run against such lien before the judgment is rendered declaring the title invalid. Such right is not affected by subsequent tax laws.—Tillotson v. Circuit Judge, 97 M. 585. One taking possession under tax deed in good faith and making improvements may recover for such improvements if his title prove invalid.—Croskery v. Busch, 116 M. 288. Provision as to improvements applies to homesteaders holding under Sec. 131.—Conn. M. L. Ins. Co. v. Wood, 115 M. 444. Further as to recovery for improvements see Rawson v. Parsons, 6 M. 401; King v. Potter, 18 M. 134; VanDenbrooks v. Correon, 48 M. 283; Guild v. Kidd, 48 M. 307; Baldwin v. Cullen, 51 M. 33; Clark v. Green, 62 M. 355.

Reorganization of counties and townships.

SEC. 105. (3928) In case of the organization of a new county after the time for making the assessment roll, and prior to the return of the township treasurer, such new organization shall in no way affect the assessment, collection or return of taxes for that year on any lands attached to the new county. No division of a township after the time for making the assessment roll, and prior to the return of the township treasurer, shall in any way affect the assessment, collection and return of such taxes; but such taxes shall be assessed, collected and returns made as though there had been no such division. If lands are detached from any county after the taxes thereon are returned to the Auditor General, and any such taxes are afterwards rejected or set aside, the county from which they were detached shall receive credit, and the county to which they are attached shall be charged, as may be proper under the provisions of this act.

Board of supervisors have no power to alter boundaries of townships when fixed by legislature.—Township of Harrison v. Board of Supervisors, 117 M. 215. As to new townships.—Comins v. Harrisville, 45 M. 442. Assessment to pay interest on bonds after division of township.—First National Bank v. Supervisors, Mich. Mandamus Cases 1346.

As to organization of new counties see Carleton v. People, 10 M. 250; Bay County v. Bullock, 51 M. 544; Attorney General v. Marr, 55 M. 445; Attorney General v. Weimer, 59 M. 580. As to adjustment of tax accounts between new and old counties see Clare County v. Auditor General, 41 M. 182; Bay County Supervisors v. Arenac Supervisors, 111 M. 105.

Adjustment of rights and liabilities on division of municipal territory.—3462 C. L. '97.

Payment before sale.

Part payment does not stay proceedings.

SEC. 106. Am. Act 154 of 1895. (3929) The taxes on any lands returned as delinquent may be paid to the county treasurer or to the State Treasurer at any time prior to the day of sale. After such petition is filed with the county clerk, payment of part of the taxes therein specified shall not stay proceedings thereon to enforce payment of such part of such taxes as are not paid, but such proceedings shall continue as to all unpaid taxes as herein provided.

Payment of taxes to State Treasurer is made through Auditor General. See Secs. 53, 59, 138.

Municipal charter provisions.

Municipalities included.

Board of review in cities.

Sessions and proceedings.

Certification of rolls.

Oath of office.

SEC. 107. (3930) This act shall be applicable to all cities and villages where not inconsistent with their respective charters. With such exceptions, the provisions herein as to supervisors, township treasurers, and boards of review, shall include all assessing and collecting officers, and all boards whose duty it is to review any assessment roll. The word township may include city, ward or village. When, by the charter or ordinances of any city or village, delinquent taxes or assessments are returned with other taxes to the county treasurer, such city or village shall not be entitled to payment of or credit for the same until the money has been received, notwithstanding anything in their respective charters to the contrary: *Provided*, That in any incorporated city, the charter of which does not provide for a board of review, such board shall consist of the several supervisors or other officers making the assessment, the city attorney, and additional members to be appointed by the common council, who shall not be aldermen, equaling the number of supervisors or assessing officers. The session of said board of review shall be held at the council room on the same days as designated in this act for the meeting of the township board of review, and the proceedings thereof conducted, as near as may be, in the same manner. Said board shall elect a chairman and clerk, who shall certify to the correctness of the several assessment rolls when completed, substantially as the form prescribed in sections twenty-nine and thirty of this act. The appointed members of said board of review shall take the constitutional oath of office, which shall be filed in the office of the city recorder or clerk.

Levy of municipal tax exceeding the aggregate amount limited by the charter for a single year is illegal and cannot be sustained.—Wattles v. Lapeer, 40 M. 624; Connors v. Detroit, 41 M. 128. Charter limitation of amount "raised by taxation" includes excess voted by freeholders.—Schneewind v. Niles, 103 M. 301. But judgment against municipalities should be assessed though such assessment would make total exceed charter limit. —Hammond v. Place, 116 M. 628. Tax to pay interest on city bonds to take stock in water supply company.—8516 C. L. '97. As to assessment to pay judgment against a city see Shippey v. Mason, 90 M. 45. A city tax voted without observing the charter requirements to enter at large upon the minutes of the council any act, proceeding, etc., is invalid.—Pontiac v. Axford, 49 M. 69. Where charter requires common council to determine by resolution the amount to be raised for contingent fund and also for interest fund, and council directed a gross sum for both, held that failure to observe charter requirements rendered tax void.—Fay v. Wood, 65 M. 390. When the mode of assessments is prescribed by the charter or by ordinances adopted under its authority, measure of power is limited thereby.—Whitney v. Village of Hudson, 69 M. 189.

Where the charter provides for apportionment of school taxes by the county clerk after assessment, review and certificate of city clerk, action is not dependent upon equalization by the board of supervisors.—Chamberlain v. City of St. Ignace, 92 M. 332.

Mandamus will not lie to compel the officers and common council of a city to pay a judgment out of moneys on hand when such moneys were raised and are required for other purposes; the creditor's remedy being under the statute requiring such judgment to be spread upon the tax roll.—Griswold v. Common Council of Ludington, 117 M. 317. Assessment in cities and villages for fire department.—3477 C. L. '97. As to limitation of municipal taxation see Arbuckle, Ryan & Co. v. City of Grand Ledge, 6 Det. Leg. News 860.

REVIEW: In Darmsteatter v. Moloney, 45 M. 621, under Detroit charter requiring assessor's certificate to assessment roll, it was held where assessor is the officer to present the roll to the board of review and is himself a member of the board, the roll does not need to be authenticated by his

certificate. A city charter having provided for a board of review which has final jurisdiction of appeals of assessment of city taxes, the question whether the assessment is excessive is not for the court to try.—Williams v. Saginaw, 51 M. 120. Where by law taxpayers have the right to present their claims for reduction of taxation or valuation in writing and to make their proofs in support of such claim by affidavit, the board of review have no power to refuse to consider such claim unless the claimants appear in person and submit to oral examination.—McMoran v. Wright, 74 M. 356. Where charter provides that board of review during certain sessions may change values and that after that time, it shall not increase any assessment, an increase after the period will void the assessment and the taxes levied thereunder.—Auditor General v. Sessions, 100 M. 343. In Avery v. E. Saginaw, 44 M. 587, it was held that the city board of review cannot increase an assessment without notice to the party assessed and giving him opportunity to be heard. But the provisions of the charter of any other city might vary this decision in a similar case.

A sewer assessment will not be set aside on the ground that the construction of the sewer was not embraced within a report at the suit of one who did not avail himself of the right to be heard thereon before common council which by the charter was constituted a board of review with power to correct, set aside or confirm the assessment.—Nelson v. Saginaw, 106 M. 659.

As to discretion of common council to levy taxes for city purposes, see Water Commissioner v. Common Council of E. Saginaw, 33 M. 164. Collection of general tax for proper city or village purposes will not be restrained on the ground that it was rendered necessary by improper use of funds.—Clee v. Village of Trenton, 108 M. 293. Further as to municipal taxation see Mitchell v. Negaunee, 113 M. 359; Pioneer Iron Company v. Negaunee, 116 M. 430; People v. Mahaney, 13 M. 495.

SYNOPSIS OF TAX PROVISIONS OF ACT 3 OF 1895 PROVIDING FOR INCORPORATION OF VILLAGES: 2684-2955 C. L. '97. All villages subject to provisions of act.—2684, 2941. Election of treasurer and assessor.—2690. Clerk to report amount of taxes to be raised to treasurer.—2732. Duties of treasurer.—2735 e. s. Assessor shall perform such duties in relation to assessing property and levying village taxes as are prescribed by act.—2746. Imposition of tax or assessment requires two-thirds vote of trustees elect.—2752. Assessment for sidewalks.—2778; for street improvement.—2780; for grading.—2784; for paving, bridges and culverts.—2786-7; for sewers, drains and watercourses.—2793-2801. Abatement of nuisance to be assessed against premises.—2818. Assessment for cemeteries.—2824. Public improvements—board of assessors—special assessments.—2831-51; Act 39 of 1899. General corporation taxes: Purposes and limit.—2852-8; assessment.—2859; review.—2860-3; certification by council.—2864; apportionment and collection.—2865-8; return of delinquent real property.—2869; sale and redemption.—2870; suit for personal taxes.—2871; voting additional expenditures.—2874; appropriation of private property—assessment for benefits.—2929; enforcing special assessments.—2945. Village charters will not be so construed as to change the operation of the general taxing laws unless such intent is plainly expressed.—Howell v. Cassopolis, 35 M. 471. Further as to village taxes see Boyce v. Peterson, 54 M. 490; Common Council v. Smith, 99 M. 507.

Provision of general tax law making it applicable to villages, etc., cannot be invoked to validate illegal action of village assessor which is governed by charter.—Common Council v. Smith, 99 M. 507.

See Secs. 29-31.

Return of city and village taxes.

SEC. 108. Am. Act 206 of 1897. (3931) The authorities of any city or village, the charter of which does not so provide, may provide by ordinance for the return of all unpaid taxes on real property to the county treasurer in the same manner and with like effect, as returns by township treasurers.

Collection thereof.

The taxes thus returned shall be collected in the same manner as other taxes returned, as provided in this act.

Judicial sale.

The authorities of any city or village which, by its charter, has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands.

State bids protected.

Such sale shall be made on petition filed in behalf of the city or village in interest, and shall conform, as near as practicable, to the provisions as to sale in this act: *Provided*, That whenever any lands are offered at such sale that have been bid to the State at any tax sale made under the provisions of any general tax law, and upon which such bid or bids remain undischarged, any sale made of such lands at the city tax sale shall be conditioned upon the payment of the tax lien held by the State on said land, and the

sale so made shall be void if the tax lien held by the State shall remain unsatisfied.

Acts of deputies.

SEC. 109. (3932) When an officer is authorized to do any act his deputy shall have the same authority, and such officer shall be responsible for the acts of his deputy.

Deputy Auditor General.—98 C. L. '97. Deputy county treasurer.—2536 C. L. '97. Deputy county clerk.—2572 C. L. '97. Deputy township treasurer, see Sec. 111. Deputy township clerk.—2342 C. L. '97.

Compensation of county and township officers.

SEC 110. (3933) Supervisors shall be allowed for their services in assessing property, making tax rolls, and for extending taxes thereon, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services under this act by salary or otherwise as the board of supervisors shall determine: *Provided*, That all cities in this State shall be exempted from the provisions of this section, and the common council shall have power to fix and determine the compensation of the city assessor and of his assistants and of the boards of review, boards of estimates, and all other like officers.

Proviso as to certain cities.

County clerk whose salary is fixed at a specified amount is not entitled to additional compensation for services contemplated by act.—Gardner v. Newaygo Co. Supervisors, 110 M. 94. Necessary disbursements in pursuance of his duties are proper charges.—Ibid.
See Sec. 90.

Deputy township treasurer.

SEC. 111. Am. Act 214 of 1897. (3934) Any township treasurer with the consent of his bondsmen, which consent shall be in writing and shall be filed with the clerk of the township, may appoint a deputy who shall possess all the powers and may perform all the duties of the treasurer. Such township treasurer and his bondsmen shall be liable for all the acts and defaults of such deputy treasurer. Such deputy shall be paid by the treasurer.

Tax payments unaccounted for.

SEC. 112. (3935) If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which has been returned delinquent, the supervisor shall have power, and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges.

Removal of timber from lands bid to State.

SEC. 113. Am. Act 154 of 1895. (3936) It shall be unlawful for any person to cut or remove any logs, wood or timber from any lands sold and bid in by the State of Michigan, for the non-payment of taxes, while the State remains the owner of such lands or the holder of any tax lien thereon by virtue of such sale, and if any person shall cut, or remove such logs, wood, or timber from such lands during the time aforesaid, the Auditor General or his deputy shall issue a warrant under his hand, in the name of the people of the State of

Warrant of Auditor General for seizure, etc.

Michigan, directed to the sheriff of the county where such lands are situated, giving therein a description of such lands, the amount of such taxes with interest and charges thereon, then remaining unpaid, commanding such sheriff forthwith to seize such logs, wood, or timber, wherever the same may be found in any county in this State, and to sell the same, or a sufficient quantity thereof, to satisfy such taxes, with the interest and charges thereon and the cost of such seizure and sale. The sheriff shall receive such warrant and execute the same as therein directed, as in case of levy and sale on execution, and make return thereof with his doings thereon to the Auditor General, within sixty days after the receipt of the same, and pay over all money collected thereon to the State Treasurer. The Auditor General may furnish the State trespass agent with lists or plats of land bid in by the State and remaining unpaid, and the said trespass agent shall examine such lands and promptly report to the Auditor General all violations of the provisions of this section. The sheriff and county treasurer of each county are hereby directed to report all such trespass, prohibited by this section, to the Auditor General, immediately, whenever they shall have knowledge of the same, and any county or township officer having knowledge of such trespass shall report the facts to the sheriff or county treasurer.

Duties of sheriff.

Return of doings.

Examination of lands by trespass agent.

Report of trespass.

Duty of county and township officers.

Commissioner of State Land Office authorized to adjust trespass.—1323 and 1393 C. L. '97. Prosecuting attorney to report trespass to Commissioner State Land Office.—1398 C. L. '97. Penalty for trespass.—1394; 1396; 11204; 11584; 11587; 11648-9 C. L. '97. Trespass on public lands.—11153, 11749-51 C. L. '97. Removal of buildings, fences, etc., suit for.—9197 C. L. '97. Action for trespass.—11122-32; 11217 (See St. John v. Antrim Iron Co., 6 Det. Leg. News 653); 11153; 9729; 11755 C. L. '97.

Statutory citations above include some which are applicable to lands purchased for taxes as well as those solely applicable to public lands.

Where one acting in good faith intentionally intermingles property of his own with that of another of equal value and quality he does not lose title to the whole, but each party will be given his due proportion of the whole.—Keweenaw Association v. O'Neil, 6 Det. Leg. News 124. As to fraudulent admixture of logs, see Stephenson v. Little, 10 M. 433.

SEC. 114. (3937) No injunction shall issue to stay proceedings for the assessment or collection of taxes under this act.

No injunction to stay collection.

Legislature may proscribe remedy by injunction to restrain collection of taxes where it has provided complete remedy at law to recover taxes illegally assessed or collected.—Eddy v. Township of Lee, 73 M. 123; Canal & Ry. Co. v. Auditor General, 79 M. 351.

SEC. 115. (3938) The holder of any certificate of sale shall, at any time after its issue, have the right to an injunction to restrain waste on any of the lands described in such certificate where such lands are valuable for timber, and the circuit court in chancery of the county in which such lands are situated shall have jurisdiction to grant such relief on bill or petition, where no other relief is sought.

Injunction to restrain waste.

A trespass to land which is of a continuing nature, the constant recurrence of which renders the remedy at law inadequate unless by multiplicity of suits, may be relieved against by injunction.—Davies v. Township of Frankenlust, 118 M. 494; Hall v. Nester, 6 Det. Leg. News 672.

In an action for waste purchaser must prove that the acts complained of were injurious to the freehold.—Ward v. Carp River Iron Co., 47 M. 65. See further as to what constitutes waste.

See Blackwood v. Van Vleit, 11 M. 252.

Willfully erroneous assessment.

Penalty.

Willfully erroneous review.

Penalty.

SEC. 116. (3939) If any supervisor or other assessing officer of any township or city shall willfully assess any property at more or less than what he believes to be its true cash value, he shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding three hundred dollars, at the discretion of the court. If any board whose duty it is to review the assessment of an assessing officer shall willfully assess property at more or less than its cash value, the members voting in favor of such action shall severally be guilty of a misdemeanor and on conviction shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, at the discretion of the court.

Failure to record payment.

Penalty.

SEC. 117. (3940) If any officer to whom any tax is paid shall fail to make proper entry and return of such payment, he shall be liable to any person injured, for the full amount of the injury, and if such failure is willful he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than six months or by fine not more than three hundred dollars.

See People v. Bringard, 39 M. 22.

Willful false swearing perjury.

SEC. 118. (3941) Any person who, under any of the proceedings required or permitted by this act shall willfully swear falsely, shall be guilty of perjury and subject to its penalties.

Official neglect.

Penalty.

SEC. 119. (3942) Any officer who shall willfully neglect, or refuse to perform any of the duties imposed upon him by this act shall, when no other provision is made herein, be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, in the discretion of the court, and shall be liable to any person injured thereby to the full extent of the injury sustained.

The last clause of this section places a personal liability upon the assessor in the event of any willful neglect or refusal to perform his duties, whenever such neglect or refusal shall occasion loss or injury to any person.

Report of stockholders of banks.

County clerk to notify supervisors.

Willful neglect by bank cashier.

SEC. 120. Am. Act 154 of 1895. (3943) The cashier of every bank, the capital of which is represented by shares of stock, shall, on the second Monday of April in each year, file in the office of the county clerk of the county where the bank is located, a list of the names of the stockholders, the amount of stock held by each on the day said report is made, and their respective residences. Immediately after the filing of such statement the county clerk shall notify the supervisor of each township of the name of each person, if any, residing in his township, holding shares of stock in any such bank, and of the amount thereof as shown by such statement. If the cashier of any bank shall willfully neglect or refuse to make and file in the office of the county clerk, a list of the names of stockholders, the amount of stock held by each, and their respective

residences, as provided in this act, or shall willfully make and file any false entry in any such list, he shall be guilty of a misdemeanor, and upon conviction he shall be punished by fine not exceeding five hundred dollars or by imprisonment in the county jail not to exceed a period of six months, or by both such fine and imprisonment in the discretion of the court. If the president, secretary or chief accounting officer of any corporation, company or association, or any representative thereof, shall willfully neglect or refuse, or shall make and verify any false statement to any assessing officer, the intention or effect of which may be to escape taxation, such person shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail not to exceed a period of six months, or by both such fine and imprisonment in the discretion of the court. And any person who shall willfully make and verify any such statement with the effect or intention to evade taxation, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed three hundred dollars, or by imprisonment in the county jail not to exceed a period of six months or by both such fine and imprisonment in the discretion of the court.

Penalty.

Willful misconduct by corporation officer.

Penalty.

Evasion of taxation.

Penalty.

Report of stockholders.—See also 6104 C. L. '97.

SEC. 121. (3944) The Auditor General shall, from time to time, as he may deem necessary, cause to be printed at the expense of the State, a sufficient number of copies of this act, and such other laws in force relating to the taxation of property, as may be requisite to a full understanding of all the duties of assessing officer, or other State, county or township officers, with proper side notes, index and forms of proceedings, as may be necessary and proper; to furnish one copy to each supervisor, assessor, township clerk and county clerk, and three copies to each county treasurer. Each copy shall be marked "State property." He shall transmit to each county treasurer, at the expense of the county, a sufficient number of copies for each county, and every county treasurer shall immediately furnish to the township clerk of each township five copies, to be distributed by him to the officers entitled thereto. The Board of State Auditors shall examine and audit all properly certified claims for services rendered and expenses incurred under the provisions of sections 121, 127 and 128 of this act.

Auditor General to publish tax laws.

Distribution.

Board of State Auditors to audit certain claims.

Auditor General to draw up and cause to be published instructions for the government of officers concerned in the collection of the revenue; which shall be binding upon such officers.—95 C. L. '97; and shall publish and distribute all pamphlets of the general tax law or of all laws relating to the revenues of the state as may be required.—Sec. 2, Act 44 of 1899.

SEC. 122. (3945) It shall be the duty of the Auditor General to provide and furnish in due season to the several county clerks and treasurers, at the expense of the State, all forms, blanks and record books made necessary by this act.

Blanks, etc., furnished by Auditor General.

Return of taxes of 1891 and 1892 to Auditor General.

SEC. 123. (3946) In order to perfect the records of taxes in the office of the Auditor General, and for the other purposes of this act, it shall be the duty of each county treasurer, immediately after the passage of this act, to make a full and complete transcript and return of all lands returned as delinquent for taxes for the years one thousand eight hundred and ninety-one and one thousand eight hundred and ninety-two, not already made, and a full and complete transcript of all moneys received, sales made and recorded, and all other things had or done under the provisions of act number two hundred of the public acts of eighteen hundred and ninety-one, entitled "An act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore and hereafter levied, and to repeal act number one hundred and ninety-five of the session laws of one thousand eight hundred and eighty-nine, except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July seventh, eighteen hundred and ninety-one. Upon the receipt of such transcripts and lists, the Auditor General shall cause them to be recorded in his office, in the proper books therefor, as such delinquent tax lands were by law or custom recorded prior to the passage of such act above mentioned. The Auditor General shall require of each of the county treasurers of this State, and such county treasurers are hereby directed to furnish on demand copies of all records, decrees, certificates, redemptions, sales, minutes and information to enable the Auditor General to perfect such tax records in his office. A like demand may be made on each of the county clerks in this State and shall in like manner be complied with by each of such clerks. Each county treasurer and county clerk shall receive such reasonable compensation for the extra services required by this section as may be allowed by the board of supervisors, to be paid out of the county treasury.

Return of doings of county treasurers.

Record of returns.

Copies of records, etc.

Duties of county clerks.

Supervisors to compensate treasurer and clerk.

Duties of Auditor General.

SEC. 124. Am. Act 154 of 1895. (3947) From and after the passage of this act the Auditor General shall perform all the duties in relation to taxes levied, assessed, collected and returned delinquent, sold or to be sold as required by this act: *Provided*, It shall not be necessary for him to sell or order resold, advertise or readvertise, and revise or renew any act done by any officer or court under and by virtue of the said act heretofore mentioned in the preceding section, but all such proceedings and acts shall be recognized and held to be legal and valid under this act, subject, however, to the provisions of section 98 of this act. In all cases where deeds have been issued by county treasurers, any such deeds shall be valid and of such force and effect as if issued by the Auditor General, but the Auditor General may cancel any deed so made by any county treasurer, on the request of the holder thereof, and issue a new deed signed by the Auditor General or his deputy as in this act provided. And for all lands advertised and sold by any county treasurer under the authority granted in said act before men-

Not required to revise acts done under 1891 law.

County treasurer's deeds valid.

Cancellation and reissue of deeds.

Sale under 1891 law valid.

tioned, such advertisement and sale shall be held legal and valid, but all such proceedings and all proceedings necessary to be had hereafter in relation to such lands and taxes shall be had under the provisions of this act. All future proceedings to be under this act.

The action of the head of an executive department of the State is not judicial and therefore not subject to direct proceedings for review.—Ambler v. Auditor General, 38 M. 746.

Section validates deed executed by county treasurer under Act 200 of 1891 for lands assessed under law 1889, the title to which was in the State at the time of sale by county treasurer.—Hoffman v. Pack Woods Co., 6 Det. Leg. News. 964.

SEC. 125. (3948) All rights which may have accrued to any person, as well as all rights which have accrued or become vested in any individual, corporation, municipality, or the State, under any of the heretofore existing tax laws of the State which have been amended, modified, changed or repealed, shall not be affected, changed or destroyed, but the same shall remain in force, subject to review and enforcement in the courts of this State, and for the completion of all proceedings heretofore begun for the collection of taxes or the enforcement of all the requirements of such laws. Vested rights undisturbed.

SEC. 126. That act number two hundred of the public acts of eighteen hundred and ninety-one, entitled "An act to provide for the assessment of property and the levy of taxes thereon, and for the collection of taxes heretofore and hereafter levied, and to repeal act number one hundred and ninety-five of the session laws of one thousand eight hundred and eighty-nine, except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July seventh, eighteen hundred and ninety-one, and all other acts and parts of acts in anywise contravening any of the provisions of this act, be and the same is hereby repealed: *Provided*, That such repeal shall not destroy or affect any rights which may have accrued or may hereafter accrue under such acts or parts of acts while the same were in force. Act 200, Public Acts of 1891, repealed. Contravening acts repealed. Proviso.

See Blackwood v. Van Vleit, 30 M. 118.

INSPECTION AND DISPOSITION OF STATE TAX LANDS.

SEC. 127. Am. Act 154 of 1895. Am. Act 107 of 1899. (3949) Lands delinquent for taxes for any five years, where said lands have been sold and bid off to the State for the taxes of one or more of the said years, and then so held, and no application having been made to pay, purchase or redeem the said lands for said taxes and no action pending to set aside such taxes or to remove the cloud occasioned thereby, shall, within the meaning of this act, be deemed abandoned lands, unless such lands are actually occupied by the person having the record title thereto. Any lands delinquent for taxes for a period of five or more years, and said lands having been sold and bid in by the State and held by the State for the taxes of any of said years, and no application having been made to pay, redeem or purchase the same, and no suit pending to set Certain State tax lands deemed abandoned.

aside said taxes or remove the cloud from the title occasioned thereby, shall be subject to the provisions of this section.

Title of State to such lands absolute.

Whenever it shall appear by the records in the Auditor General's office that any lands are delinquent for taxes for five years or more and that said lands have been bid off to the State one or more times by reason of such delinquent taxes, and that the time of redemption of such sale or sales has expired and that no application has been made to pay, to redeem or purchase the same, and it shall appear that no action is pending in the circuit court of the county where said lands are situated to set aside the taxes or remove the cloud on the title occasioned thereby, the title to the State shall be deemed absolute in and to said lands; and it shall be the duty of the Auditor General and the Commissioner of the State Land Office to cause an examination of such lands to be made as soon as practicable, to ascertain their value and if abandoned. Upon the examiner filing a certificate as to said examination and the occupancy of said premises, and the certificate of the county clerk of the county where said lands are situated, in the office of the Auditor General, showing that no suit is pending in said county to set aside any of said taxes or remove the cloud occasioned thereby, the Auditor General and the Commissioner of the State Land Office shall determine what lands so examined come within the provisions of this section, and record their determination in a book to be kept in the office of the Auditor General for that purpose. The finding and determination of the Auditor General and the Commissioner of the State Land Office shall show:

Examination of lands.

Examiner's and county clerk's certificate.

Determination by Auditor General and Commissioner of State Land Office.

First, A description of said lands;

Second, The years for which they have been returned delinquent for taxes;

Third, The time or times bid off to the State, and the taxes for which said bid was made;

Fourth, Whether said lands are occupied or abandoned;

Fifth, Whether or not any suit is pending in the county where said lands are situated to set aside the taxes, or any of them, or to remove the cloud occasioned thereby.

Limitation of contest.

The determination of the Auditor General and Commissioner of the State Land Office in that regard shall be deemed to be conclusive as to the facts therein stated, unless suit is instituted to vacate the same within six months, as hereinafter provided. Within ninety days after such determination the Auditor General shall make a transfer by deed of all lands so determined by the Auditor General and said Commissioner of the State Land Office to come within the provisions of this section to the State of Michigan as to an individual, as provided in section seventy-two of this act so far as said section is applicable. Said deed or deeds shall be delivered to the Commissioner of the State Land Office, who, after having said deed or deeds recorded in the register of deeds office, of the county where the lands are situated, shall file the same in his office. Upon the execution and delivery of said deed or deeds to the

Auditor General's deed to State.

Recording and filing.

Commissioner of the State Land Office, said commissioner shall hold said lands as State lands, subject to the provisions hereinafter contained. And no suit shall be instituted to vacate, set aside or annul the said determination of the said Auditor General and the Commissioner of the State Land Office made as aforesaid unless instituted within six months after the determination aforesaid. Any person desiring to file a bill or institute a suit to vacate the findings of the Auditor General and Commissioner of the State Land Office, as provided in this section, shall first pay to the Auditor General all delinquent taxes returned to the Auditor General on the lands in question, together with all interest, costs and charges, and shall purchase and pay for all bids and titles held by the State to such lands by paying therefor the amount bid by the State and all interest and legal charges thereon, as provided in section eighty-four of this act. The money so received by the Auditor General shall be paid into the general fund of the State, and in case the determination of the Auditor General and Commissioner of the State Land Office should be set aside and held for naught, and the taxes, or any portion thereof, shall be adjudged invalid for any of the reasons set forth in section seventy-six of this act, then in such case the Auditor General shall return to the person entitled thereto such taxes, or any portion thereof, as shall be so adjudged invalid for the reasons aforesaid, and in case the title is held valid the money so received shall be divided between the State, county and township pro rata according to the taxes paid, the same as in other cases. Any suit instituted for the purpose of setting aside the determination aforesaid may be commenced in the circuit court of the county of Ingham. It is hereby made the duty of the county clerks of the several counties of this State, on inquiries by the Auditor General, to furnish to said Auditor General a certificate showing whether or not any such suit is pending in the circuit court of the counties, as above referred to, relating to any lands described and referred to in the inquiry of the Auditor General.

Suit to vacate.

Payment of taxes condition precedent.

Disposition of money paid.

Suit in Ingham county.

Duty of county clerks.

Lands held for the last three consecutive sales under tax law of '89, subject to provisions of this section if also bid to the State at sale of December, 1893, under this act.—Conn. M. L. Ins. Co. v. Wood, 115 M. 444. See also Attorney General's opinion, 5 Det. Leg. News No. 16.

To constitute a continued possession it is only necessary that it should have been such as the owner of that kind of real estate (remote pine lands) ordinarily exercises.—Safford v. Basto, 4 M. 406.

SEC. 128. Am. Act 107 of 1899. (3950) The register of deeds for each county, upon delivery to him for that purpose of the deeds mentioned in the preceding section, shall record the same in his office and return such deeds to the Commissioner of the State Land Office. The register of deeds for recording such deeds shall receive the sum of fifty cents each from the State Treasurer out of any funds not otherwise appropriated, upon allowance of his account by the Board of State Auditors.

Record of State tax deeds to State.

Duty and fees of register.

See 11237 C. L. '97.

Record in State Land Office.

SEC. 129. (3951) The Commissioner of the State Land Office shall make a list or entry in books in his office of such lands, separate from other State lands, showing the amount of taxes due and the years for which such lands were delinquent for taxes, the date of inspection and by whom inspected, and when deeded to the State; also when, to whom, and upon what conditions sold or disposed of, as hereinafter provided.

Cancellation of certain taxes.

SEC. 130. (3952) Am. Act 107 of 1899. All taxes charged against such lands in the office of the Auditor General at the time they are deeded to the State shall be canceled, but no part of such taxes due to the township or county shall be charged to the State, but the State, county and township respectively shall bear the share of loss on such taxes that properly belongs to each, and the Auditor General shall make a list of all such lands in each county on or before the first day of March in each year and transmit such list to the county treasurer and the county treasurer shall serve, or cause to be served, upon the supervisor of the township in which such lands are located a copy of the list of lands in such township as furnished to said treasurer by the Auditor General. Said supervisor shall produce said list to the board of review while in session for the purpose of reviewing the assessment roll. The supervisor shall omit and cancel from his assessment roll all said lands so deeded to the State, as shown by said list, and it shall also be the duty of the board of review, when in session, to compare the assessment roll of the township with the list so furnished by the county treasurer, as aforesaid, and correct all mistakes, and said lands so deeded as aforesaid shall not be liable to any assessment for any purpose until the same are again sold and deeded by the State, and notice of said sale and deeding given to the county treasurer by the Commissioner of the State Land Office, as hereinafter provided.

Notification of county treasurers by Auditor General.

County treasurer to notify supervisor.

Lands deeded state to be omitted from assessment roll.

Such land not taxable until sold.

Lands subject to homestead entry.

SEC. 131. Am. Act 240 of 1897. (3953) Am. Act 107 of 1899. All such lands shall be held by the Commissioner of the State Land Office subject to entry as homestead lands only, and if any person shall apply for them, or any part thereof, not to exceed in quantity one hundred and sixty acres or if within the limits of the plat of any city or village, not to exceed the contiguous lands in any one block, or two contiguous parcels of unplatted land, for any one person so applying, and shall file an affidavit that such person desires such lands for actual settlement, for the purpose of a homestead, the Commissioner of the State Land Office shall issue a certificate to such person for such land upon the payment of the sum of ten cents per acre, conditioned that such persons shall reside upon said lands for the period of five years and improve the same: *Provided*, That in case such lands are included in the plat of any city or village or of any subdivision of or addition to any city or village, the land that may be taken as a homestead by any person shall be contiguous and shall not exceed one block according to such plat, or two contiguous unplatted parcels, except where such city or village lands have been bid to the State by govern-

Limit.

Conditions.

Platted lands.

ment description, in which case no person shall receive a certificate for more than one government description, and in the case of any such lands the amount paid therefor shall be the same for any parcel less than one acre as for one acre as provided in this section. At the expiration of such five years such person shall be entitled to make, and shall make, proof of the fulfillment of such contract within three months in such manner as the said Commissioner of the State Land Office may prescribe. And when such proof is made to the satisfaction of said Commissioner of the State Land Office such person shall be entitled to a deed of such land from the State, executed by the Commissioner of the State Land Office, on behalf of the State, which deed shall be in such form as the Commissioner of the State Land Office shall determine, the said deed shall be witnessed and acknowledged, and shall be entitled to record in the office of the register of deeds in the proper county, in the same manner and with like effect as other deeds are duly witnessed, acknowledged and certified. Such deeds shall convey an absolute title to the lands sold, and shall be conclusive evidence of title in fee in the grantee, and it shall be the duty of the State of Michigan to defend and prosecute all suits brought to protect such title and the State shall pay all costs adjudged against the homesteader. Such homestead lands shall be subject to the same rules and regulations now in force as to other homestead lands not inconsistent with the provisions of this act. Persons who have heretofore taken up homestead lands under this section, having made the first payment required by this section, and having resided upon and improved the same since they entered thereupon, are hereby relieved from making any further payments to the State: *Provided*, That nothing in this section shall be construed to entitle any person or persons who have heretofore entered such lands the return of any part of the payments heretofore made by them: *And provided further*, That any person who has purchased and entered into possession of any lands as a homestead, under and by virtue of the provisions of this section, as originally passed, or as amended when said lands had been bid off to the State and were held by the State for the taxes of one or more years, and said lands were delinquent for taxes for three or more years, shall, on performing the other conditions of said section, as amended, receive a deed therefor, as herein provided, and shall be deemed to have a good, sufficient fee-simple title to said premises, to all intents and purposes the same as though said lands had been bid off to the State for a consecutive period of more than three years, as originally provided in section one hundred and twenty-seven of said act. And in all cases where the lands have been taken as a homestead as set forth in last foregoing proviso, all actions of ejectment or to recover possession of said lands or to set aside the title of such homesteader by any person, firm or corporation claiming the original or government title shall be commenced within six months after this act shall take effect and not after-

Homesteader's proofs.

Deed from State.

Entitled to record.

Evidence of title.

State to defend.

Rules of entry.

Former homestead entries.

Deed to.

Title.

Limitation of actions.

Payment of taxes condition precedent.

wards. Said person, firm or corporation shall before commencing such proceedings pay to the Auditor General all delinquent taxes returned to the Auditor General on the lands in question, together with all interest, costs and charges, and shall purchase and pay for all bids and titles held by the State to such lands by paying therefor the amount bid by the State and all interest and legal charges thereon, as provided in section eighty-four of this act. The money so received by the Auditor General shall be deposited in the State Treasury to the credit of the State, county and township wherein said lands are situated in proportion to the amount of taxes due to the State, county and township upon said lands; and in case the State's title to the land should be declared valid, then the taxes and moneys so paid by the person, firm or corporation instituting such suit of ejectment shall be returned upon the order of the Auditor General, less the costs of such suit. And it shall be the duty of the State of Michigan to prosecute and defend suits and pay costs as herein provided: *And provided further*, That after the said land has been so held by the State of Michigan subject to entry as homestead land, for three years from April one, eighteen hundred ninety-nine, for all land already deeded to the State and for three years or more from the date of the deed for all land hereafter deeded to the State under section one hundred twenty-seven aforesaid and where no application has been to homestead certain descriptions of said lands, then and in such case said lands concerning which there has been no application to homestead shall be open to sale and purchase as hereinafter provided. In case written application shall be made to the Commissioner of the State Land Office to purchase any description of said lands so held by the State for more than three years, as herein stated, it shall then be the duty of the Commissioner of the State Land Office to examine and appraise the value of the land so offered to be purchased as aforesaid. The Commissioner of the State Land Office shall make a record of said appraisement in a book to be kept in his office for that purpose. After such examination and appraisement, if there has been no application to homestead said lands it shall be competent and the Commissioner of the State Land Office is hereby authorized to sell such description of land to any person so applying for the purchase thereof, but at not less than the appraised valuation and he shall not be authorized to sell to any one person over two hundred and forty acres of said land. In case of the sale of said lands the Commissioner of the State Land Office shall execute and deliver to the purchaser a deed in such form as he may determine, which shall convey to the purchaser the same interest as is provided for a deed where said lands have been homesteaded as provided in this section. All moneys received by the Commissioner of the State Land Office upon the sale of said lands as provided under the last above proviso shall by him be deposited in the State Treasury to the credit of the State, county and township wherein said lands are situated in proportion to the amount of taxes

Disposition of money.

State to defend.

Appraisal and sale after three years.

Duty of Commissioner of State Land Office.

Record of appraisement.

Deed on sale.

Disposition of purchase money.

due to the State, county and township upon the land so sold by the Commissioner of the State Land Office at the time of the conveyance to the State of such lands.

Improvements on any such lands held under certificate are assessable as personal property. See Sec. 132. For manner of assessment see Sec. 4. A homestead entry vests no title, but gives a right of possession which may be perfected by continued occupancy and improvement, and if not so perfected reverts to the government. When perfected, title issued relates back to the time when entry was made.—F. & P. M. R. R. Co. v. Gordon, 41 M. 420. The retention of homestead rights, though the party live elsewhere temporarily, is largely a matter of continuing intent, and is a fact to be proved like any other fact.—Hoffman v. Buschman, 95 M. 538. The duration of a man's absence from his own house does not of itself supply a conclusive presumption that he has abandoned it as a homestead.—Bunker v. Paquette, 37 M. 79.

But a homesteader holding a tax homestead certificate would forfeit his rights to the land by wholly removing himself and his family therefrom and only holding possession of the lands by hiring another party to live upon and improve the land.—Opinion of Attorney General Oren. Det. Leg. News, March 24, 1900.

Homesteaders are protected by provisions of Sections 73 and 104.—Conn. M. L. Ins. Co. v. Wood, 115 M. 444.

Improvements assessable.

SEC. 132. (3954) Lands held under such contract shall not be assessed until the State has given title to the occupant thereof, but improvements upon any such lands may be assessed as personal property, as in the case of other part paid lands.

Notice of perfecting of title.

SEC. 133. (3955) Am. Act 107 of 1899. Whenever any person has perfected his title to any such lands, and a deed for the same has been issued by the State to such person, the Commissioner of the State Land Office shall so notify the county treasurer of the proper county that such lands are again and thereafter taxable as other lands. And they shall thereafter be assessed to such owner or occupant as other lands are assessed for all purposes. The county treasurer shall serve, or cause to be served, upon the supervisor of each township in which such lands are located, on or before the fifteenth of April, a copy of the list of lands in his township, so furnished to said county treasurer by the Commissioner of the State Land Office. Said supervisor shall produce said list to the board of review, while in session, for the purpose of reviewing the assessment roll, and all such lands shall be placed upon the assessment roll. All acts and parts of acts in anywise contravening any of the provisions of this act are hereby repealed.

When assessable.

Notice to supervisor.

Proceeds.

SEC. 134. (3956) All moneys received by said commissioner for such lands shall be turned over to the State Treasurer and placed to the credit of the general fund, and all expenses incurred shall be audited by the Board of State Auditors and paid out of the general fund.

Expenses.

SUPPLEMENTARY.

Recording and filing plats, deeds, etc.

SEC. 135. Am. Act 154 of 1895. (3957) When any deed, land contract, plat of any town site, village or addition to any town site, village plat or city, or any other instrument for the conveyance of title to any real estate, is presented to the register of deeds of any county in this State for record or filing in his office, he shall require from the person presenting the same a certificate from the Auditor General, or from the county treasurer of the county, whether there are any tax liens or

Register to require certificate of payment of taxes, etc.

titles held by the State, or by any individual, against such piece or description of land sought to be conveyed by such instrument, and that all taxes due thereon have been paid for the five years preceding to the date of such instrument, and in default of the presentation of such certificate he shall not record the same until such certificate is secured and presented. The register of deeds shall note the fact upon said deed that said certificate has or has not been presented to him when such instrument is presented for record, and in case the person presenting such instrument shall refuse to procure such certificate, he shall endorse that fact upon said instrument, over his official signature, and shall refuse to receive and record the same: *Provided*, That the provisions of this section shall not apply to the filing of any town or village plat for the purpose of incorporation, in so far as the land therein embraced is included in a plat already filed in the office of the register of deeds, or in so far as the description of lands therein is not changed by such plat, nor to the filing of any copy of the town, village or city plat in case the original plat filed in the office of such register of deeds has been lost or destroyed, nor to any sheriff's or commissioner's deed executed for the sale of lands under any proceeding in law, or by virtue of any decree of any of the courts of this State, nor to any deed of trust by any assignee, executor or corporation executed pursuant to any law of this State, nor to any quit claim deed or other conveyance containing no covenants of warranty; nor to any land patent executed by the President of the United States, or the Governor of this State, nor to any tax deed made by the Auditor General; nor to any deed executed by any railroad company conveying its right of way, provided such deed is accompanied by a certificate of the Auditor General showing that all specific taxes due from said railroad company have been paid, to and including the year in which such deed is executed. A violation of the provisions of this section by any register of deeds shall be deemed a misdemeanor, and upon conviction thereof he shall be fined not to exceed one hundred dollars, and he shall further be liable to the grantee of any instrument so recorded for the amount of damages sustained, to be recovered in an action for debt in any court of this State.

Noting certificate.

When register shall refuse to record.

Proviso.

Exceptions.

Penalty.

The evident purpose is to secure collection of taxes and the section is not void under Sec. 20. Art. IV, Constitution.—Van Husan v. Heames, 96 M. 504. Provisions of section not an infringement of property rights.—Id.

"That all taxes due thereon for the five years, etc.," refers to taxes appearing upon the records of the Auditor General or county treasurer and the certificate must be made from the facts shown by those records. The instrument is entitled to record unless the certificate shows that all taxes have not been paid for the five years previous to its date; and sale to individuals is payment of the taxes for which the land was sold. The certificate need not specify the unpaid taxes nor the outstanding tax liens or titles, but only whether there are or are not any of each.—Van Husan v. Heames, 96 M. 504.

Fee of county treasurer for certificate, 15 cents; in Wayne county, 25 cents. —2548 C. L. '97, Am. by Act 211 of 1899. The charge made by the Auditor General for certificate is fifty cents where the instrument does not contain more than two or three descriptions, but is governed by the provisions of Sec. 166 C. L. '97, and consequently where the instrument contains a large number of descriptions an additional charge is made.

The record of an instrument not by law entitled to record is notice to no one.—Dutton v. Ives, 5 M. 515; Galpin v. Abbott, 6 M. 17.

Blanks for county treasurers' certificates under this section are furnished

y the Auditor General. It is frequently made evident that unapproved orms are used in some counties, in certain instances the certificate show- ng no more than that the taxes for the five years preceding the date of he instrument to be recorded have been paid. Such a certificate is not a ompliance with the law and is frequently misleading. Sale for taxes to an ndividual is a payment of the tax, but this legal conclusion not being opularly understood, a certificate showing no more than that the taxes re paid is understood by many as showing that the land has not been old for taxes and often leads owners to neglect redemption, and conse- uently to a loss of their titles. The certificate should contain a description f the lands, should show whether or not "there are any tax liens or titles eld by the State," should state affirmatively or negatively whether "there re any tax liens or titles held by any individual," and whether the taxes or the five years preceding the date of the instrument, are paid. If the axes for the prescribed period are shown to be paid, the instrument is ntitled to record, although there may be any number of tax titles held y individuals or by the State, provided none of the latter are for taxes f either of the five years preceding the date of the deed (not of the certif- cate). If asked for, and the statutory fee paid, the certificate should be ssued, whether it shows the instrument to be recordable or not.

A tax history cannot be substituted for this certificate, nor should the ertificate recite what liens or taxes there may be against the land, such howing being provided for by the statutes providing for making tax his- tories and for the fees therefor.

SEC. 136. [Provided for the purchase of lands held as State tax lands five years prior to 1890. The section expired by its own limitation January 1, 894.]

Writs of assistance.

SEC. 137. (3958) The circuit court may, on application, put the purchaser of any lands sold under the provisions of this act in possession of the premises by writs of assistance.

A demand for the possession of land made upon the agents of a corporation who are in the actual occupancy thereof is a sufficient foundation for an application for a writ of assistance against the corporation.—Ball v. Ridge Copper Co., 118 M. 7. Further as to writ of assistance see Sec. 70, 72, and Berkey v. Burchard, 5 Det. Leg. News. 723.

Lands returned under prior tax laws.

SEC. 138. Added by Act 169 of 1899. All lands which have been returned to the Auditor General as delinquent for taxes under the provisions of any general tax law in force prior to the passage of act two hundred of the public acts of eighteen hundred and ninety-one, and upon which the taxes are now or shall hereafter remain unpaid and which have not been sold for such taxes, and all lands so returned which have been heretofore sold for such delinquent taxes, and upon which the sale or sales so made shall have been or may hereafter be set aside by any court of competent jurisdiction, or shall have been or may hereafter be canceled, as provided by law, shall be subject to disposition, sale and redemption for the enforcement and collection of such tax liens in the method and manner provided in this act for the disposition, sale and redemption of lands made subject to the provisions of this act by section sixty thereof: *Provided*, That nothing in this section contained shall be held to provide for the sale of any lands heretofore sold, if the sale thereof shall have been set aside or canceled for any reason affecting the validity of the taxes for which the land was sold: *Provided further*, That the court may in its discretion, where equity appears to so demand, enter decree of sale for the taxes for any year prior to eighteen hundred ninety-one, for the amount of the taxes found valid, without including the charge for interest thereon as provided by law: *And provided further*, That if tender of the amount assessed against any land for taxes of eighteen hundred ninety, or any prior year is made to the Auditor General, together with the collection fee

Subject to sale under this act.

No sale for invalid taxes.

Court may decree sale for certain taxes without interest.

Payment of taxes of 1890 and prior years.

and the charge for expenses as provided by law, at any time before the first day of the month preceding the month in which sale is ordered to be made, he shall issue receipt therefor, and cancel any State bid under which said land is held for said year, and in such case the State, county and township shall bear the loss of accrued interest in proportion to their several interests therein.

Payment under this section cannot for any purpose be deemed to be a payment as a condition of purchase, but is a voluntary payment, and can only be made to Auditor General.
See Auditor General v. O'Connor, 83 M. 464.

Cancellation of State bids and resale of lands held under invalid sales.

SEC. 139. Added by Act 169 of 1899. The Auditor General may cause an examination to be made of the proceedings under which any lands bid to the State, and which have not been deeded by the Auditor General, were sold for delinquent taxes and bid to the State under the provisions of any general tax law, and if he shall find that such sales or the decrees under and by virtue of which such sales were made were in contravention of any provision of the laws in force at the time such decrees were entered or sales made, he may cancel such sales and proceed at any time to enforce the collection of such taxes under and in accordance with the provisions of this act, as in the case of lands returned or sold thereunder.

On application to Auditor General and payment of the taxes and charges any person owning an interest in land held as State tax land may have any invalid sale canceled and receipt for the taxes issued.
SALES UNDER LAW OF 1885: Law prospective only and sale under it for taxes assessed under law 1882 is absolutely void.—Hall v. Perry, 72 M. 202; McNaughton v. Marin, 72 M. 276.
Interest on taxes assessed under drain law 1885.—Tile Co. v. Snyder, 93 M. 325; Bump v. Jepson, 106 M. 641.
SALES UNDER LAW 1889: As to service of subpeona, see Coyle v. O'Connor, 6 Det. Leg. News 583.
SALES UNDER LAWS OF 1889 AND 1893: Land bid to state and so held cannot be included in subsequent proceedings for sale.—Connecticut Mutual Life Insurance Co. v. Wood, 115 M. 444 (applicable to sale 1890 to 1898, inclusive). But tax deed cannot be attacked in collateral proceedings on this ground.—Peninsular Savings Bank v. Ward, 118 M. 87. The provision under which the decision in Conn. M. L. Ins. Co. v. Wood was rendered was eliminated by the amendment of Sec. 61 in 1899.
Decree will be set aside and deed issued thereunder vacated where court failed to sit for the first five days after the day fixed for hearing (by Sec. 56, Law 1889, and Sec. 66, Law 1893, before amendment of 1899).—Youngs v. Clark, 6 Det. Leg. News 265. Where fifth day falls on Sunday decree cannot be entered until the following Monday.—McGinley v. Calumet and Hecla Mining Co., 6 Det. Leg. News 282; Hall & Munson Co. v. Auditor General, Ibid.
Decree entered in less than five days from date fixed for hearing is void as to those who did not appear or otherwise waive right to apply for further time.—Wait v. McMillan, 6 Det. Leg. News 293.
Where (under Sec. 66 before amendment of 1899) day fixed for hearing was September 24 and judge was not present on that day, but sent order to adjourn to September 30th and it was done and court was in session on the 30th and then adjourned to October 4, when decree was entered; Held, that court did not acquire jurisdiction to enter decree, owner being entitled to five court days (not necessarily consecutive) in which he can make it appear to the court that he has been prevented from filing objections.—Miller v. Brown, 6 Det. Leg. News 659.
Sec. 66 (before amendment 1899) does not require the court to be actually in session, and when the court was adjourned from day to day for the purpose of allowing protest to be filed and the decree was not signed until after the fifth day, no objection could be raised.—Gates v. Johnson, 6 Det. Leg. News 615.
Where the time fixed for the hearing of the petition was November 10 and the court was in session continuously from that day to November 14, inclusive, and then adjourned until Monday the 16th, when the decree was made and entered, it is held that this is sufficient under Sec. 66, Law of 1893 (before amendment of 1899).—Brown v. Houghton Mineral Land and Mining Co., 6 Det. Leg. News 987.
Omission of dollar mark in Tax Record.—Millard v. Truax, 99 M. 157.

SALES UNDER LAW 1893: Purchaser under Sec. 84 (before amendment in 1899) must pay all taxes that are a lien on the land (whether returned or not), and this amount he is bound to know, and must produce evidence that they are paid if such be the fact.—Hughes v. Jordan, 118 M. 27; Cockburn v. Auditor General, 6 Det. Leg. News 316.

When certain applicants to purchase State tax lands had not paid township taxes then due, but made showing said taxes had been paid, and it appearing that such payment was by checks and made by subsequent applicant prior to his application to purchase, but that at the date of the application of the prior applicants said checks had not been paid, but that they were paid before the subsequent applicant's application was made to purchase; Held, that the subsequent applicant was entitled to deed.—Moore v. Auditor General, 6 Det. Leg. News 872.

Notice by purchaser to certain parties.

SEC. 140. Added by Act 229 of 1897. (3959) Am. Act 204 of 1899. No writ of assistance or other process for the possession of any land, the title to which has been obtained under and in pursuance of any tax sale made after the twenty-ninth day of August, A. D. eighteen hundred ninety-seven, or of any sale of State tax lands or State bids made after the said twenty-ninth day of August, eighteen hundred ninety-seven, except where such title shall be obtained under the provisions of section one hundred thirty-one of this act, shall be issued until six months after there shall have been filed with the county clerk of the county where the land is situated a return by the sheriff of said county, showing that he has made personal service, or until substituted service, as hereinafter provided, has been made upon the grantee or grantees under the last recorded deed in the regular chain of title to said land, and upon the mortgagee or mortgagees named in all undischarged recorded mortgages, or any assignee thereof of record, of a notice, which shall be in the following form:

Form.

To the owner or owners of the land herein described, and to the mortgagee or mortgagees named in all undischarged recorded mortgages against said land, or any assignee thereof of record:

Take notice that sale has been lawfully made of the following described land for unpaid taxes thereon, and that the undersigned has title thereto under tax deed issued therefor, and that you are entitled to a reconveyance thereof, at any time within six months after service upon you of this notice, upon payment to the undersigned of all sums paid upon such purchase, together with one hundred per cent additional thereto, and the fees of the sheriff for the service or cost of publication of this notice, to be computed as upon personal service of a declaration as commencement of suit, and the further sum of five dollars for each description, without other additional costs or charges. If payment as aforesaid is not made, the undersigned will institute proceedings for possession of the land.

Descriptions.....Amount paid.....

Tax for 1....

(Signed.) .....

Place of business.....

Notice to non-residents of county.

Provided, That if grantee or grantees, or the person or persons holding the interest in said lands as aforesaid, shall be residents of any county in the State other than the county in which the land is situated, then such return as to such persons

shall be made by the sheriff of the county where such person or persons reside: *Provided further*, If any grantee or grantees, or the person or persons holding the interest in said lands as aforesaid, shall be non-residents of this State, if from the said record aforesaid, or from inquiry, the sheriff can obtain the postoffice address of such grantee or grantees, or the person or persons holding the interest in such land as aforesaid, or if the said address be known to him, he shall send to such person or persons aforesaid a copy of said notice by registered letter, and return the receipt as [or] receipts received for said letter or letters with his return to the county clerk's office:

Notice to non-residents of State.

...ded further. That if any person entitled to notice, as hereinbefore provided, is dead, or if his estate shall be under control of a trustee or guardian, then and in such case notice as hereinbefore provided may be served upon the executor or administrator of said deceased person, or upon his heirs, if there be no executor or administrator, or upon the trustee or guardian of any incompetent person, with like effect as if served upon the grantee, mortgagee or assignee.

...of incompetents and deceased owner.

Provided further, That if the sheriff of the county where any such lands are located shall make a return that after careful inquiry he is unable to ascertain the whereabouts or the post-office address of the grantee named in the last recorded deed, or the mortgagee named in the last recorded mortgage, or the assignee of record of said mortgage of said premises, or of the heirs of said grantee or mortgagee or assignee, or the whereabouts or the postoffice address of the executor, administrator, trustee or guardian of such grantee, mortgagee or assignee, then such notice as is herein provided for shall be published six successive weeks in some newspaper published and circulating in the county where such lands are located, and due proof of publication, by affidavit of the printer or publisher of such newspaper, shall be filed with the county clerk, and shall be in lieu of the personal service above provided for.

Notice by publication.

Recital of consideration in deed not conclusive as to the amount.—Mowrey v. Vandling, 9 M. 39. Recital of consideration in deed is merely to give it effect as conveyance; and for any other purpose parol evidence is admissible to show that it was actually more or less than the amount stated.—Strohauer v. Voltz, 42 M. 444; Doty v. Martin, 32 M. 462. And that it embraces other matters than those stated in the deed.—Dean v. Adams, 44 M. 117; Trevidick v. Mumford, 31 M. 467. See also 9512 and 9519 C. L. '97. The true consideration of a deed may always be shown where it becomes material to do so.—Flynn v. Flynn, 68 M. 20. Consideration of deed may be shown by parol.—Collar v. Collar, 75 M. 414.

The consideration for re-conveyance is double the entire amount paid to purchase the land, which amount includes taxes paid for other years than those included in the deed if such additional taxes were paid as a condition of purchase. Notice in other cases than those definitely provided for in the section is nowhere provided for.—Attorney General's opinion, 5 Det. Leg. News No. 18.

Provisions of Sec. 140 et seq., not applicable to tax sales made prior to August 29, 1897.—Pierpont v. Osmun, 118 M. 472

Plaintiff in ejectment claiming under a tax title acquired (if at all) after Act 229 of 1897 took effect, held not entitled to maintain the action, not having served notice on the owners as provided in that act.—Church v. Smith, 6 Det. Leg. News 353.

SUBSTITUTED SERVICE: The statute must be strictly complied with. If substituted service is resorted to it must appear that adequate endeavor has been made to make actual service.—Merrill v. Montgomery, 25 M. 72. Must be confined to the cases and exercised as provided by the statute.—Hartford Fire Insurance Co. v. Owen, 30 M. 441. See also Campau v. Charbeneau, 104 M. 422.

SEC. 141. Added by Act 229 of 1897. (3960) Am. Act 204 of 1899. Any grantee or grantees under the last recorded deed to such land, or any mortgagee or mortgagees named in the last recorded mortgage, or any assignee thereof of record at the time of the giving of said notice, or any executor, administrator, heir, trustee or guardian of such grantee, mortgagee or assignee, as provided in section one hundred forty of this act, shall be entitled to receive from the person so claiming under and by virtue of such tax deed, at any time within six months after the personal service of such notice, or the date of mailing said notice by registered letter, or the first publication of such notice, as so provided, a reconveyance of such interest in such lands so held, upon payment to the grantee under such tax deed of the amount paid upon such purchase, together with one hundred per cent in addition thereto, and the lawful fees or costs for such personal service, or substituted service, which fees shall be the same as provided by law for service of subpoenas or for orders of publication, or the cost of such service by registered mail, and the further sum of five dollars for each description, without additional cost or charge: *Provided*, That any person or persons to whom the notice herein provided for is to be given shall, at any time before such notice is so given, be entitled to a reconveyance of any such lands to the parties in interest, as appears of record, on the payment to such person or persons claiming title under and by virtue of such tax deed of the amount paid upon such purchase, together with one hundred per cent in addition thereto, and the further sum of five dollars for each description:

Conditions of reconveyance.

Fees for service of notice.

Reconveyance before notice.

Provided further, If any reconveyance is made to any mortgagee or mortgagees, or assignee thereof, that such conveyance shall not operate as an absolute conveyance of the title to such lands, but shall be considered and treated as an additional lien upon said lands, and shall be added to the amount of such mortgage, and the mortgagor or person or persons claiming under him shall be entitled to a reconveyance of the tax title interest in such land from said mortgagee or mortgagees, or assignees thereof, upon the payment of all sums so paid to such person or persons claiming under any such tax deed, with interest thereon at the rate of six per cent per annum from date of such payment, and such reconveyance shall in no way operate as a release or discharge of such mortgage lien: *Provided further*, That any such application for a writ of assistance shall show that such applicant has complied with the provisions of this act as to the giving of notice as herein directed, and he shall attach to such application a copy of the notice aforesaid, and the return of the sheriff serving the same, or a copy of the proof of publication, or the registry receipt or receipts from the registry department of the postoffice, showing that such notice has been served by registered mail.

Proviso as to mortgage liens.

Application for writ of assistance.

Tender for reconveyance is to be made to the purchaser. Neither the Auditor General nor county treasurers have anything to do with reconveyance under this section.

Condition precedent to possession.

SEC. 142. Added by Act 229 of 1897. (3901) No purchaser under any tax sale hereafter made, or of any State tax land or any State bid hereafter sold, shall enter into possession of the land so purchased until six months after he has given notice to the party or parties in interest as provided for in the preceding sections unless he shall have acquired from said parties their title thereto under conveyance from said party or parties of his or their interest in said land.

SEC. 143. Added by Act 229 of 1897. (3902) Every person personally served as aforesaid and every person lawfully chargeable with notice by registered mail, as herein provided for, together with the heirs, executors, administrators or assigns of such person, who shall refuse or neglect to pay or tender to the purchaser as aforesaid, the sum provided for in this act within the time therein limited, shall be barred from questioning the validity of such tax title or tax deed thereafter.

Legislature has power to pass limitation laws prescribing the time within which parties shall assert their rights by suit.—Price v. Hopkins, 13 M. 318. Section contains provisions that are beyond the natural limits of the title of Act 229 of 1897 and is therefore void.—Citizens' Savings Bank v. Auditor General, 6 Det. Leg. News 1091. When act is broader then title if after striking out all not indicated by title what is left is complete in itself, sensible, capable of execution and fully independent of what was rejected, the act must be sustained as constitutional.—Callaghan v. Chipman, 59 M. 610, and cases cited under Sec. 20, Art. IV, Const., p. 81, C. L. '97.

Auditor General to be a party to actions to set aside taxes or tax sales.

Service on prosecuting attorney

Attorney General to defend in certain cases.

No costs taxed.

SEC. 144. Added by Act 97 of 1899. The Auditor General shall be made a party defendant to all actions or proceedings instituted for the purpose of setting aside any sale or sales for delinquent taxes on lands held as State tax lands, or which have been sold as such or which have been sold at annual tax sales, or for purpose of setting aside any taxes returned to him and for which sale has not been made; in all such cases a copy of the bill of complaint or petition shall be served upon the prosecuting attorney at the time of commencing the action, who shall send a copy thereof within five days to the Auditor General, which said service shall be in lieu of the service of process. Upon so being made a party, it shall be the duty of the Auditor General, whenever he shall, in his discretion, deem the same to be expedient, to the end that the State of Michigan may be fully protected, to cause the Attorney General to represent him in such proceedings. In any suit or proceedings instituted for the purpose in this section mentioned, no costs shall be taxed against either party to the action.

As to requirement of one seeking to set aside taxes see Merrill v. Auditor General, 24 M. 169.

In suit to set aside drain tax county drain commissioner shall be made a party.—Act 141 of 1899.

See Secs. 70, 73, 76.

State Tax Commission.

Appointment.

Qualifications.

Term of office.

SEC. 145. Added by Act 154 of 1899. It shall be the duty of the Governor by and with the advice and consent of the senate within five days after this act shall have been approved by the Governor, to appoint three resident free-holders of this State, who shall be duly qualified electors thereof, who shall constitute a Board of State Tax Commissioners, with powers and duties as prescribed under the provisions of this act, one of whom shall hold office until the thirty-first day of December, nineteen hundred; one of whom shall hold office until the thirty-first day of December nineteen hundred, and for two

years thereafter; the other of whom shall hold office until the thirty-first day of December, nineteen hundred, and for four years thereafter, or until their successors shall be appointed and have qualified, and thereafter their successors shall hold office for a term of six years, and until their successors shall be appointed and have qualified. At the expiration of the terms of office of the members of said board, their successors in office so long as this act shall remain in force, shall be appointed by the Governor by and with the advice and consent of the Senate. All appointments which are provided to be made by the Governor under this section of the act, shall be made while the Legislature is in session, and not at any other time except in cases where vacancies in office shall occur otherwise than by expiration of the term of office of any member of said board. In case a vacancy in the office occurs otherwise than by expiration of the term, the Governor shall have power to appoint to fill such vacancy at any time, and the person so appointed shall hold office until the next meeting of the Legislature after such appointment, and no longer.

Successors.

Appointments, when made.

Vacancies.

SEC. 146. Added by Act 154 of 1899. Said board shall elect a secretary at a salary not to exceed fifteen hundred dollars per annum. The person so elected shall hold his office during the pleasure of said board and shall keep a record of all the proceedings of said board, which records with all other papers or proceedings of said board shall be a part of the records of the Auditor General's office, and of which the Auditor General shall be the lawful custodian. The secretary shall devote all his time to the duties of his office, and when said board is not in session, shall perform such duties as may have been assigned him by said board.

Secretary of board.

Duties, etc.

Auditor General custodian of board's records.

SEC. 147. Added by Act 154 of 1899. The members of said board, and the secretary thereof, shall take and subscribe the constitutional oath of office to be filed with the Secretary of State. The members of said board shall receive an annual salary of two thousand five hundred dollars, and shall devote their whole time to the discharge of the duties of their office, and they shall also receive their necessary expenses in the performance of their duties, both to be audited and allowed by the Board of State Auditors, and paid monthly by the State Treasurer, out of the general fund.

Oath of office.

Salary and expenses of members.

SEC. 148. Added by Act 154 of 1899. Regular sessions of said board shall be held at the office of said board at the capitol, to be furnished by the Board of State Auditors. The said board and the members thereof, shall have access to all books, papers, documents, statements and accounts on file or of record of [in] any of the departments of State, subject to the rules and regulations of the respective departments relative to the care of the public records. It shall have like access to all books, papers, documents, statements and accounts on file or of record in counties, townships and municipalities. Said board shall have the right to subpoena witnesses upon a subpoena signed by the president of the said board, and attested by the secretary

Sessions of board.

Shall have access to public records.

Right to subpœna.

Service. thereof, directed to such witnesses, and which subpoena may be served by any person authorized to serve subpoenas from courts of record in this State, and the attendance of witnesses may be compelled by attachment to be issued by any circuit court in the State upon proper showing that such witness has been properly subpoenaed and has refused to obey such subpoena. Fees for service. The person serving such subpoena shall receive the same compensation now allowed to sheriffs and other officers for serving subpoenas. May examine witnesses. Said board shall have power to examine witnesses under oath, said oath to be administered by any member of said board or by the secretary thereof. Examination of private and corporate records. Said board shall have the right to examine books, papers or accounts of any corporation, firm or individual owning property liable to assessment for taxes, general or specific, under the laws of this State, and any officer or stockholder of any such corporation, any member of any such firm, or any person or persons who shall refuse to permit said inspection, or neglect or fail to appear before said board in response to its subpoena, or testify, as provided for in this section, shall be deemed guilty of a misdemeanor, and shall Penalty for refusal to permit. be punished by a fine not exceeding one thousand dollars, or by imprisonment in the State Prison for a period not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

Regular sessions of board. SEC. 149. Added by Act 154 of 1899. Said board shall hold regular meetings on the first Tuesday of March, June, July, August, September and October in each year, and may hold adjourned sessions as may be deemed necessary by it for the proper performance of the duties devolving upon said board. Special sessions. The chairman may call special sessions of the board whenever and wherever in the State he may deem it advisable so to do, and shall call such special sessions upon the written request of two members.

Duties of board. SEC. 150. Added by Act 154 of 1899. It shall be the duty of said board:

Supervision of assessing officers. 1. To have and exercise general supervision over the supervisors and other assessing officers of this State, and to take such measures as will secure the enforcement of the provisions of this act, to the end that all the properties of this State liable to assessment for taxation shall be placed upon the assessment rolls and assessed at their actual cash value.

To secure enforcement of tax law. 2. To confer with and advise assessing officers as to their duties under this act, and to institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations and individuals failing to comply with the provisions of this act; to prefer charges to the Governor against assessing and taxation officers who violate the law or fail in the performance of their duties in reference to assessment and taxation, and in the execution of these powers the said board may call upon the Attorney General or any prosecuting attorney in the State to assist said board.

To investigate irregular assessments. 3. To receive complaints as to property liable to taxation that has not been assessed, or has been fraudulently or im-

properly assessed, and to investigate the same, and to take such proceedings as will correct the irregularity complained of, if found to exist.

To visit each county, etc.

4. To see that each county in the State be visited by at least one member of the board as often as once each year, to the end that all complaints concerning the law may be heard; that information concerning its workings may be collected; that all assessing and taxation officers comply with the law, and all violations thereof be punished, and that all proper suggestions as to amendments and changes may be made.

To secure information as to operation of the tax law.

5. To require from any officer in this State, on forms prescribed by said Board of State Tax Commissioners such annual or other reports as shall enable said Board of State Tax Commissioners to ascertain the assessed valuations and equalized valuations of all property listed for taxation throughout the State under this act; the amount of taxes assessed, collected and returned delinquent, and such other matter as the board may require, to the end that it may have complete and statistical information as to the practical operation of this act.

To ascertain valuations and rate of taxation.

6. To inquire into and ascertain the valuation of the properties of corporations paying specific taxes under any of the laws of this State, and to ascertain the actual rate of taxation as based upon the valuation of said properties that is being paid by said corporations, and to this end said board shall require reports from, and make investigations, as to the properties of such corporations in the same manner and to the same extent as if said corporations were paying taxes under this act.

To enquire into revenue systems.

7. To make diligent investigation and inquiry concerning the revenue laws and systems of other states and countries, so far as the same is made known by published reports and statistics, and can be ascertained by correspondence with officers thereof, and with the aid of information thus obtained, together with experience and observation of our own laws, to recommend to the Legislature, at each regular session thereof, such amendments, changes or modifications of our revenue laws as seem proper and necessary to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of public revenues.

To make recommendations to legislature.

To report to legislature taxes collected, lost, etc.

8. To further report to the Legislature at each regular session thereof, or at such other times as the Legislature may direct, the whole amount of taxes collected in the State for all purposes, classified as to State, county and township and municipal purposes, with the sources thereof; the amount lost; the cause of the loss; the proceedings of said board, and such other matters of information concerning the public revenues as it may deem of public interest.

To report valuation and taxes paid by corporations paying specific taxes.

9. To further report to the legislature at the beginning of the regular sessions, specifically, the true valuation of the properties of corporations paying specific taxes and the rate of taxation actually paid on said valuation and the true valuation of all other properties of the State and the rate of taxation the same are paying, to the end that the legislature shall have the

information necessary to rearrange the rate or system of taxation on said properties, so that all taxable properties of the State may be taxed uniformly.

To attend meetings of State Board of Equalization.

10. To be present at each meeting of the State Board of Equalization and furnish such information as said board may require, and that may assist said board in the performance of the duties imposed upon it by law.

Board to make annual report to Governor.

SEC. 151. Added by Act 154 of 1899. The Board of State Tax Commissioners shall, on or before the fifteenth day of December in each year, make an annual report to the Governor of this State, setting forth the workings of said commission during the preceding year, and containing the findings and recommendations of said commission in relation to all matters of taxation. The Board of State Auditors shall cause five thousand copies of said annual report to be printed on or before the fifteenth day of January succeeding the making of said report. Three hundred copies of said report shall be placed at the disposal of the State Librarian for distribution and exchange.

Printing of copies.

Board may inspect assessment rolls.

SEC. 152. Added by Act 154 of 1899. After the various assessment rolls required to be made under this act shall have been passed upon by the several boards of review, and prior to the time fixed for equalization and apportionment of State and county taxes, the said several assessment rolls in the State shall be subject to inspection by said Board of State Tax Commissioners or by any member thereof; and in case it shall appear, or be made to appear, to said board that property subject to taxation has been omitted from said roll, or individual assessments have not been made in compliance with law, the said board may issue an order directing the assessor whose assessments or failure to assess is complained against, to appear with his assessment roll at a time and place to be stated in said order, said time to be not less than seven days from the date of issuance of said order, and the place to be at the office of the board of supervisors at the county seat or such other place in said county in which said roll was made, as said board shall deem most convenient for the hearing herein provided. A notice of the time and place that said assessor is ordered to appear with said roll, together with a statement of the persons whose property or whose assessments are to be considered shall be published in a newspaper published at the county seat of said county if there be one; if not in some paper printed in said county if there be any, at least, five days before the time at which said assessor is required to appear, and where practicable personal notice by mail shall be given to said persons prior to said hearing. A copy of said order shall also be served upon the supervisor or assessing officer in whose possession said roll shall be, at least three days before he is required to appear with said roll. The said board or any member thereof shall appear at the time and place mentioned in said order, and the supervisor or assessing officer upon whom said notice shall have been served shall appear also with said assessment roll.

May require assessor to appear, etc.

Notice.

The said board or any member thereof, as the case may be, shall then and there hear and determine as to the proper assessment of all property and persons mentioned in said notice, and all persons affected or liable to be affected by the review of said assessments thus provided for may appear and be heard at said hearing. In case said board or the member thereof who shall act in said review, shall determine that the assessments so reviewed are not assessed according to law, he or they shall, in a column provided for that purpose, place opposite said property the true and lawful assessment of the same. As to the property not upon the assessment roll, the said board or member thereof acting in said review, shall place the same upon said assessment roll by proper description, and shall place thereafter, in the proper column, the true cash value of the same. In case of review under the provisions of this section, the said board or the member thereof acting in said review shall certify under his hand officially and spread upon said roll a certificate of the day and date at which said assessment roll was reviewed by him, and the changes by him made therein. For appearing with said roll as required herein the supervisor or assessing officer shall receive the same per diem as is received by him in the preparation of his assessment roll, to be presented to and paid by the proper officers of the municipality of which he is the assessing officer, in the manner as his other compensation is paid. The action of said board or member taken as provided in this act shall be final.

Shall hear and determine, etc.

Shall correct assessment in certain cases.

Shall add omitted property to roll.

Shall certify to action taken.

Compensation of assessor.

SEC. 153. Added by Act 154 of 1899. In case it shall appear or be made to appear to said board that any assessment roll in the State is so grossly irregular and unlawfully assessed that adequate compliance with the law cannot be secured except by a general review of said assessment roll, said board may make and issue an order that said assessment roll shall be subject to general review, and the time and place shall be stated in said order, at which said roll shall be reviewed, and under said order the assessor whose assessment or failure to assess is complained against shall be required to appear with his assessment roll at the time and place thus determined, said time to be not less than fourteen days from the issuance of said order, and the place to be at the office of the board of supervisors at the county seat, or such other place in said county in which said roll was made, as said board shall deem most convenient for the hearing herein provided for. A notice of the time and place that said assessor is required to appear with said roll, together with a statement that said roll will be subject to general review, and that all persons interested therein may be heard at said time, shall be published in a newspaper published at the county seat of said county, if there be one; if not, in some paper printed in said county, if there be any, at least seven days before the time at which said assessor is required to appear. A copy of the order made as aforesaid shall be served upon the supervisor or assessing officer in whose possession said roll shall be, at least three days before he is

Review of assessment under order of board.

Time and place.

Notice.

Publication.

Service on assessor.

required to appear with said roll. The said board or any member thereof shall appear at the time and place mentioned in said order and the supervisor or assessing officer upon whom said notice shall have been served shall appear also with said assessment roll. The said board or any member thereof, as the case may be, shall then and there review said assessment roll and may hear and determine complaints as to the said assessment roll and the assessments of property therein, and he or they shall have power to determine in accordance with law, the amount at which said assessments shall be placed, and to change the same, so that said assessments may comply with the law. Also to place upon said roll property omitted therefrom, in the same manner as provided in the last preceding section. The determination of said board or member thereof acting in said review shall place in a column provided for that purpose, and shall proceed in all respects as provided in the last preceding section, and the supervisor or assessing officer shall receive the same compensation as provided in said section.

Review by board.

Board to change assessments.

To add omitted property.

Compensation of assessor.

Report of property omitted in prior years.

SEC. 154. Added by Act 154 of 1899. If it shall be made to appear to said board at any time after the last meeting of the State Board of Equalization that any property liable to taxation has not been assessed for any previous year as hereinafter provided, the said board shall report the same to the proper assessing officer and the same shall be listed for taxation upon the next assessment roll that shall be made, and shall be valued as all other property. The said board shall further certify to the board of supervisors of the several counties at the October session thereof, next after said property shall be then listed for taxation, the description of said property and the several years that the same has been liable for, and escaped taxation, and said board of supervisors shall ascertain the rate of taxation for said several years and shall order the taxes for said years to be spread against said property upon the valuation for the then current year, and the same shall be so spread in a column provided for that purpose, and it shall constitute a charge against the person and property, and be collected as other taxes: *Provided, however*, That this provision shall not be deemed to relate back prior to the going into effect of this section: *And provided further*, That in case of change in ownership of the property omitted said taxes shall not be spread against said property prior to the last change of ownership.

Certification to board of supervisors.

Proviso.

MICHIGAN SUPREME COURT.

Cases marked with an * are not tax cases.

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1897	Kent	Ada Township vs. Circuit Judge	114 Mich.	77.	Bridges	36
1889	Bay	Adams vs. Bay City	78 "	211.	Local improvements	36
1892	Wayne	Aitcheson vs. Huebner	90 "	643.	State tax land books—Public records.—Dealing in tax titles —Return of purchase money	78, 84
1877	Houghton	Albany & Boston Mining Co. vs. Auditor Gen.	37 "	391.	Assessment Roll—Equitable relief	34, 70
1884	Alcona	Alcona County vs. White	54 "	503.	Highway taxes	36
1897	Wayne	*Aldrich vs. Wayne Circuit Judge	111 "	525.	Writ of assistance	72
1887	Genesee	Alger vs. Slaght	64 "	589.	Drain taxes	37
1899	Allegan	Allegan Village vs. Chaddock	6 D.L.N.	20.	Liability of sureties	43
1861	Wayne	Amberg vs. Rogers	9 Mich.	332.	Description	25
1878	Gratiot	Ambler vs. Auditor General	38 "	746.	Suit against State—Executive discretion	87, 124
1863	St. Clair	*Ames vs. P. H. L. D. & Booming Co.	11 "	139.	Agency—Estoppel	72
1859	Wayne	*Anderson vs. Baughman	7 "	69.	Description—Lots and blocks defined	25
1896	Clinton	Angell vs. Courtright	111 "	223.	Drain taxes	37
1899	Eaton	Arbuckle, Ryan Co. vs. City of Grand Ledge	6 D.L.N.	860.	Limitation of municipal taxation	107
1876	Bay	Attorney Gen. vs. B'd of Super's of Bay Co.	34 Mich.	46.	Highway taxes—County tax for highways	37
1875	Kalamazoo	Attorney General vs. Burrell	31 "	25.	Voluntary payment	46
1895	Kent	Attorney General vs. Cogshall	107 "	181.	Supervisor in cities	10
1897	Wayne	Attorney General vs. Common Council	113 "	388.	Exemption of benevolent, etc., institutions, and telephone companies	7
1899	Ingham	Attorney General vs. A. P. Cook Co.	6 D.L.N.	805.	Part-paid lands	4
1885	Wexford	Attorney General vs. Marr	55 Mich.	445.	New counties	105
1879	Sanilac	Attorney General vs. Sanilac Supervisors	42 "	72.	Valuation—Equalization.—Petitions for reduction.—Power to equalize	24, 34
1888	Sanilac	Attorney General vs. Sanilac Supervisors	71 "	16.	Mortgages—Taxation of	8
1875	Ingham	*Attorney General vs. Smith	31 "	359.	Title	98
1874	St. Clair	Attorney General vs. Supervisors of St. Clair	30 "	388.	Assessment—County treasurer—Annual tax sale—County treasurer's bond—Responsibility of county for money received at tax sale	37, 70, 93
1886	Iron	Attorney General vs. Weimer	59 "	580.	New counties	105
1896	Lenawee	Atwell vs. Barnes	109 "	10.	Local improvements—Drain taxes.—Estoppel	36, 37, 66
1872	Lenawee	Atwell vs. Zeluff	26 "	118.	Tax warrant—Involuntary payment.—Protest	42, 46
1896	Ontonagon	Auditor General vs. Ayer	109 "	694.	Equalization—Record of	99
1899	Gogebic	Auditor General vs. Ayer	6 D.L.N.	688.	Unlawful agreement of board of review—Entry of values—Time—Certificate—Equalization—Record of	29, 99
1890	Wayne	Auditor General vs Baker	84 Mich.	113.	Costs—State not liable for	66
1895	Bay	Auditor General vs. Bay County Supervisors	106 "	662.	Title of act.—Account between State and county—Estoppel —Levy to pay amount due State—Proper charges—Collection fee	T, 87, 89
1872	Jackson	Auditor General vs B'd of Super's Jackson Co.	24 "	237.	Apportionment of tax to pay amount due State	35

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1896	Cheboygan	Auditor General vs. Chandler	108 Mich.	569.	Board of review—Hearing on petition—Amendment to objections—Voting highway tax.—School taxes—Authority of board—Curative statutes	30, 66
1898	Baraga	Auditor General vs. Duluth, S. S. & A. Railway	116 "	122.	Voting taxes—Authority of township board.—Exemption from highway tax	36, 99
1890	Kent	Auditor General vs. Fisher	84 "	128.	Local improvements	36
1897	Bay	Auditor General vs. F. & P. M. R. R. Co.	114 "	682.	Lands in railroad yard—Exemption	7
1899	Manistee	Auditor General vs. F. & P. M. R. R. Co.	6 D.L.N.	22.	Railroad lands, what exempt	7
1896	Oceana	Auditor General vs. Gurney	109 Mich.	472.	School taxes.—Hearing on petition—Taxes not affected by equalization—Taxes charged back—Reassessment	36, 66, 95
1893	Chippewa	Auditor General vs. Hill	97 "	80.	Record of equalization, signing	34
1894	Chippewa	Auditor General vs. Hill	98 "	326.	Board of supervisors—Examination certificates, etc.	37
1897	Muskegon	Auditor General vs. Hutchinson	113 "	245.	Publication in the English language—Presumption of regularity—Tax roll—Verification of treasurer's return—Time	66, 99
1892	St. Clair	Auditor General vs. Jenkinson	90 "	523.	Intentional under-assessment	24
1897	Muskegon	Auditor General vs. Kanaar	114 "	602.	Petition for decree—Taxes erroneously charged back	95
1895	Houghton	Auditor General vs. Keweenaw Association	107 "	405.	Review—Estoppel—Irregularities—Curative statutes—Tax roll—Township treasurer's return—County treasurer's record of delinquent lands—Non-prejudicial irregularities—Assessment as "unknown"—Misnomer	30, 99
1896	Baraga	Auditor General vs. Longyear	110 "	223.	Voting taxes.—Record—Hearing on petition—Defacto officer—Equalization	36, 66, 99
1893	Saginaw	Auditor General vs. Maier	95 "	127.	Local improvements—Presumption of regularity—Burden of proof—Estoppel	36, 66, 67
1891	Presque Isle	Auditor General vs. McArthur	87 "	457.	Unauthorized exemption—Voting taxes—Record—Township board—Burden of proof	7, 36, 99
1890	Wayne	Auditor General vs. O'Connor	83 "	464.	Payment of re-assessed taxes	138
1889	Mand. Ottawa	Auditor General vs. Ottawa Supervisors	76 "	295.	Account between State and county—Interest	87
1899	Saginaw	Auditor General vs. Patterson	6 D. L. N.	641.	Refunding—Taxes charged back—Lien	73
1900	Marquette	Auditor General vs. Pendill	6 D. L. N.	1098.	Intentional omission of property—Discrimination in assessment—Assessment of lands crossed by railroads, etc.	24, 25
1892	Iosco	Auditor General vs. Prescott	94 Mich.	190.	Intentional omission	24
1890	Wayne	Auditor General vs. Regents	83 "	467.	State property	70
1890	Mackinac	Auditor General vs. Reynolds	83 "	471.	Record of equalization	34
1890	Mackinac	Auditor General vs. Roberts	83 "	471.	Record of equalization	34
1894	Muskegon	Auditor General vs. Sessions	100 "	343.	Increase of assessment after review	107
1890	Wayne	Auditor General vs. Sloman	84 "	118.	Petition—Form of hearing—Pleadings—Objections	66
1893	Saginaw	Auditor General vs. Smith	95 "	132.	Presumption of regularity—Burden of proof	66
1898	Gogebic	Auditor General vs. Sparrow	116 "	574.	Description—Abbreviations—Change of valuation by board of review—Addition to roll—Township board—Voting taxes—Submission of school tax—Equalization, record of—Dollar sign—Tax roll—Warrant—Non-prejudicial irregularities—Return—Certificate of board of review	25, 30, 36, 99
1890	Newaygo	Auditor General vs. Stiles	83 "	460.	Title of act—Supervisor's warrant—Hearing on petition—No personal decree—Answer of fraud—Excessive assessment	T, 47, 66
1889	G'd Traverse	Auditor General vs. Super's Gd. Traverse Co	73 "	182.	Account between State and county—Suit against State—Levy to pay amount due State	87
1872	Jackson	Auditor General vs. Supervisors Jackson Co.	24 "	237.	Apportionment of balance due State	35
1891	Menominee	Auditor General vs. Supervisors Menominee Co.	89 "	562.	Apportionment of State tax	35

1890	Midland	Auditor General vs. Supervisors Midland Co.	84	"	121.	Account between State and county—Estoppel	87
1877	Monroe	Auditor General vs. Supervisors Monroe Co.	36	"	71.	Assessor cannot legislate—County responsible to State for regularity of taxes—Taxes charged back—Authority of Auditor General	M, 95
					579.	Controversy between State and county—Practice—Equity	87
1886	Saginaw	Auditor General vs. Supervisors Saginaw Co.	62	"	536.	Account between State and county—Interest	87
1889	Shiawassee	Auditor General vs. Supervisors Shiawassee Co.	74	"	28.	Account between State and county—County treasurer's duties as to State tax	87
1888	Tuscola	Auditor General vs. Treasurer Tuscola Co.	73	"			7
			94	"	180.	"Not so competent" Indian lands	7
1892	Isabella	Auditor General vs. Williams	5	D.L.N.	876.	Exemption	25
1889	Manistee	Auditor General vs. Women's Temp. Assn.	26	Mich.	42.	Fractional description	37
1872	Bay	Au Gres Boom Co. vs. Whitney	5	D.L.N.	902.	Drain taxes	
1899	Sanilac	Auketell vs. Hayward	5	"	828.	Payment under protest—Appeal to review assessment—Board of review	67, 99
1899	Gogebic	Aurora Iron Mining Co. vs. City of Ironwood					3
			6	"	8.	Assessment to life tenant	14
1899	Jackson	Austin vs. Hyndman	72	Mich.	25.	Standing timber	
1888	Muskegon	Avery vs. DeWitt	44	"	587.	Assessment at cash value—Increase of assessment after review	24, 107
1880	Saginaw	Avery vs. East Saginaw					46
					601.	Involuntary payment	47
1887	Crawford	Babcock vs. Township of Beaver Creek	64	"	479.	Involuntary payment	90, 135
1887	Crawford	Babcock vs. Township of Beaver Creek	65	"	218.	Compensation of county treasurer	66
1894	Wayne	Backus vs. County Treasurer	99	"	329.	Publication of order—Time	55
1885	Huron	*Bacon vs. Kennedy	56	"	188.	Premature return	47
1888	Huron	Bailey vs. Haywood	70	"	96.	Levy	53
1878	Barry	*Bailey vs. Wright	39	"	76.	Voluntary payment—Suit to recover	72
1887	Mecosta	Baker vs. City of Big Rapids	65	"	22.	Purchase by mortgagee	36
1883	Saginaw	Baker vs. Clark	52	"	253.	Local improvements	104
1896	Wayne	Balch vs. Detroit	109	"	33.	Recovery for improvements	7
1883	Wayne	Baldwin vs. Cullen	51	"	639.	Exemption	69
1890	Barry	Baldwin vs. City of Hastings	83	"	395.	Infants' rights	
1878	St. Clair	*Ballentine vs. Clark	38	"	7.	Personal service—Questions foreclosed by decree—Provision making tax deed conclusive evidence of title—Constitutionality of act—Writ of assistance—Board of review	66, 67, 72, 99, 137
1898	Ontonagon	Ball vs. Ridge Copper Co.	118	"			
							46
1891	Kent	Balfour vs. Whitman	89	"	202.	Payment of invalid tax	40
1897	Bay	Bangor vs. Smith Transportation Co.	112	"	601.	Collection by suit—County treasurer's warrant	56
1895	Bay	Bangor Township vs. Transportation Co.	106	"	223.	County treasurer's warrant—Township treasurer's return	36
1896	Jackson	Baudistel vs. City of Jackson	110	"	357.	Local improvements	36, 37
1886	Shiawassee	Barker vs. Township of Vernon	63	"	516.	Drain taxes	53
1896	Newaygo	Barnhard vs. City of White Cloud	108	"	508.	Recovery of tax paid under protest—Misnomer	
1908	Van Buren	Barnum vs. Barnes	112	"	264.	Petition for decree—Final decree—Time—Tax Record part of decree—Non-enrollment of decree—Duration of tax sale—Lands bids to state	61,66,67,70
							14
			56	"	35.	Assessment of undistributed legacy	105
1885	Mecosta	Barstow vs. Big Rapids	51	"	544.	New counties	105
1883	Barry	Bay County vs. Bullock	111	"	105.	Adjustment of tax account between old and new counties	72
1896	Arenac	Bay County Super's. vs. Arenac County Super's.	6	D.L.N.	635.	Writ of assistance—Practice	36
1899	Bay	Beck vs. Finn	92	Mich.	268.	Local improvements	9, 13
1902	Wayne	Beecher vs. City of Detroit	110	"	456.	Deduction of indebtedness	13
1906	Wayne	Beecher vs. Common Council	114	"	228.	Assessment of personal property—Locus	36
1907	Wayne	Beecher vs. Common Council	63	"	44.	Local improvements	
1886	Muskegon	Beidler Manufacturing Co. vs. Muskegon	104	"	269.	Proof of publication—County clerk's files—Action to vacate decree—Enrollment—Curative statute	66, 84, 99
1895	Alcona	Benedict vs. Auditor General					

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1898	Ottawa	Berkey vs. Burchard	5 D.L.N.	723.	Duty of owners of land—Bill of review—Action to set aside sale—Writ of assistance	
1899	Ottawa	Berkey vs. Burchard	6 "	518.	Conditions of purchase at tax sale	M. 70
1881	Berrien	Berrien County Treasurer vs. Bunbury	45 Mich.	79.	Liability of sureties—Liability of treasurer for State and county taxes—Accounting for taxes collected—Official bonds—Capacity of obligee to sue on	78, 84
1875	Lenawee	Bertram vs. Cook	32 "	396.	Purchase by one in possession under contract	43, 54, 93
1880	Lenawee	Bertram vs. Cook	44 "	288.	Tenant—Estoppel	72
1894	Mecosta	Big Rapids vs. Supervisors	99 "	351.	Exemption of county property—Local improvements	72
1875	Lenawee	Bird vs. Perkins	33 "	28.	Supervisor's warrant—Liability of collector—Tax roll—Description	7, 36
1884	Ingham	Bixby vs. Goss	54 "	551.	Drain taxes	42, 47, 99
1874	Lenawee	Blackwood vs. Van Vleit	30 "	118.	Duty of occupant to pay taxes—Tax deed—Who estopped from purchasing—Accrued rights	37 47, 70
1863	Lenawee	Blackwood vs. Van Vleit	11 "	252.	Waste	
1876	Monroe	Blair vs. Compton	33 "	414.	Levy—Purchaser under decree	44, 72, 126
1880	Kent	Blanchard vs. Powers	42 "	619.	Hearing on petition—Illegal tax—Limitations under tax deed—Ejectment—Collateral attack	115 66, 73
1886	Muskegon	Blodgett vs. Muskegon	60 "	580.	Assessment of partnership property	12
1899	Kent	Boardman vs. Boozewinkle	6 D.L.N.	467.	Tax deed prerequisite to action to quiet tax title—Purchase by mortgagee	
1888	Kalkaska	Boardman vs. Flagg	70 Mich.	372.	Settlement with township treasurer	72
1895	Monroe	Boehme vs. Monroe	106 "	401.	Special assessment—Valuation—Local improvements	41
1898	Jackson	Bogert vs. Jackson Circuit Judge	118 "	457.	Local improvements	38
1880	Mason	*Boom Co. vs. Adams	44 "	403.	Riparian rights	36
1894	Wayne	Borgman vs. Detroit	102 "	201.	Local improvements	2
1899	Calhoun	*Bowen vs. Brogan	5 D.L.N.	775.	Life tenant	36
1892	Roscommon	Boyce vs. Auditor General	90 Mich.	314.	Township clerk's certificate—Highway tax—Record of taxes ordered raised—Apportionment—Record—Assessment for agricultural societies—Signatures of officers of board	72
1888	Muskegon	Boyce vs. Cutter	70 "	539.	Assessment of forest products—Replevin	36, 37, 99
1891	Muskegon	Boyce vs. Peterson	84 "	490.	Replevin—Village taxes	15, 47
1887	Osceola	Boyce vs. Sebring	66 "	210.	Equalization—Apportionment—Record—Excessive levy—Certificate of equalization—Tax roll	47, 107 34, 37, 39,
1891	Muskegon	Boyce vs. Stevens	86 "	549.	Replevin—County treasurer's warrant—Statement of taxes collected	43, 99 47, 99
1891	Cheboygan	Bradley vs. Bouchard	85 "	18.	Assessment—Misnomer	24
1897	Sanilac	Brady vs. Hayward	114 "	326.	Drain taxes	37
1886	Mason	*Bresler vs. Butler	60 "	40.	Mandamus to state officer	98
1872	Wayne	Brevoort vs. Detroit	24 "	322.	Reassessment	96
1865	Van Buren	Brewer vs. Palmer	13 "	104.	Supervisor's liability	39
1899	Clare	Brooks vs. Roche	5 D.L.N.	811.	Proof of publication—Action to set aside	66, 70
1892	Mackinac	Brooks vs. St. Ignace	92 Mich.	332.	Equalization—Record of	99
1888	Arenac	Brooks vs. Township of Arenac	71 "	231.	Assessment of forest products—Assessor's knowledge	15, 18
1869	Genesee	Brown vs. Avery	5 D.L.N.	849.	Purchase by grantee of mortgagor	72
1890	Kent	Brown vs. Grand Rapids	83 Mich.	101.	Review—Estoppel	30
1900	Alger	Brown vs. Houghton Mineral Land & Mining Co.	6 D.L.N.	987.	Decree of sale—Time for objections	139

1883	Kalamazoo	Brown vs. Martin	49 Mich.	565.	Cumulative titles	86
1895	Saginaw	Brown vs. Saginaw	107 "	643.	Local improvements	35
1882	Gratiot	Brownell vs. Supervisors Gratiot Co.	49 "	414.	Drain taxes	37
1883	Mand.	Bryant vs. Moore	50 "	225.	School taxes	36
1862	Washtenaw	Bullard vs. Green	10 "	268.	Action to set aside sale	70
1895	Ionia	Bump vs. Jepson	106 "	641.	Drain taxes—Interest on under drain law 1885	37, 139
1877	Cheboygan	*Bunker vs. Paquette	37 "	78.	Abandonment of homestead	131
1885	Lenawee	Burnett vs Drain Commissioners	56 "	374.	Tax proceedings not reviewable on certiorari	31
1877	Mand. Antrim	Burns vs. Bender	36 "	195.	School taxes	36
1887	Osceola	Burroughs vs. Goff	64 "	464.	School taxes—Excessive levy—Second deed	36, 39, 83
1879	Wayne	*Burrowes vs. Gibson	42 "	121.	Description of platted land	25
1878	Marquette	Burt vs. Auditor General	39 "	126.	Statutory certificates	99
1889	Mand. Wayne	*Burton vs. Tuite	78 "	363.	Public records	46
1890	Mand. Wayne	*Burton vs. Tuite	80 "	218.	Public records	46
1896	Marquette	Busch vs. Nester	62 "	381.	No entry before deed	81
1880	Wayne	Butler vs. Detroit	43 "	552.	Local improvements	36
1865	Kent	Butler vs. Porter	13 "	292.	Purchase by tenant in common—Purchase of undivided interest—Burden of proof	72
1891	Kent	*Butler vs. Railway Co.	85 "	246.	Riparian rights	2
1872	Saginaw	Butler vs. Supervisors Saginaw County	26 "	22.	Taxation for private purposes—Drain taxes	M, 37
1884	Oceana	Byles vs. Genung	52 "	504.	Supervisor's warrant—Liability of collector	47
1884	Oceana	Byles vs. Golden Township	52 "	602.	Liability of township for taxes wrongfully collected—Township orders received for taxes—Accounting—Action for refunding unlawful levy	53, 54
1883	Wayne	Byram vs. Detroit	50 "	56.	Reassessment	96
1890	Kalkaska	Caldwell vs. Ward	83 "	13.	Injunction to restrain waste	44
1891	Kalkaska	Caldwell vs. Ward	88 "	378.	Injunction to restrain waste	44
1892	Shiawassee	Caledonia Township vs. Rose	94 "	216.	Assessment, who to determine—Time of meeting of board of review—Curative statutes	29, 30, 99
1886	Wayne	*Callaghan vs. Chipman	59 "	610.	Title of act	T. 143
1883	Saginaw	Callan vs. Saginaw	50 "	7.	Voting county taxes	37
1875	Newaygo	Cameron vs. Adams	31 "	426.	Limitation of action—Vested rights—Redemption	73, 74
1883	Branch	Camp vs. Algansee	50 "	4.	Action to recover ditch tax paid	53
1895	Macomb	Campau vs. Charbeneau	105 "	422.	Substituted service	140
1869	Wayne	*Campau vs Godfrey	18 "	27.	Redemption—Laches	74
1867	Wayne	*Campau vs. Van Dyke	15 "	371.	Bill to impeach decree—Laches	70
1890	Houghton	Canal & Railway Co. vs. Auditor General	79 "	351.	Provision for quieting title—Remedy	72, 114
1850	Oakland	*Cargill vs. Power	1 "	369.	Redemption	74
1862	Muskegon	Carleton vs. People	10 "	250.	New counties	105
1893	Bay	Carney vs. Baldwin	95 "	442.	Equity practice	67
1898	Muskegon	Carpenter vs. Jones	117 "	91.	Certificate of no taxes	98
1867	St. Joseph	Case vs. Dean	16 "	12.	Authority to tax—Equalization—Township clerk's certificate—Tax roll—One-mill tax—Excessive levy—Burden of proof—Presumption of regularity	M, 34, 36, 39 73, 99
1899	Gratiot	Case vs. Skinner	6 D. L. N.	409.	Tax deed—Collateral attack—Entry in Tax Record of amounts decreed	66
1896	Wayne	Chabert vs. Russell	109 Mich.	571.	Adverse possession—Evidence	73
1884	Berrien	Chamberlain vs. Ahrens	55 "	111.	Tenant in common—Purchase by—Limitation—Adverse possession—Ejectment	72, 73, 86
1892	Mackinac	Chamberlain vs. City of St. Ignace	92 "	332.	Equalization—Record of—Apportionment—Charter provision	34, 99, 107
1879	Mecosta	Chapin vs. Hunt	40 "	595.	Admission of validity of title	98
1890	Van Buren	Chapman vs. Remington	80 "	562.	Note for taxes void	47
1896	Cheboygan	Cheboygan vs. Erratt	110 "	156.	Liability of sureties	43
1892	Cheboygan	Cheboygan Supervisors vs. Township of Mentor	94 "	386.	Taxation for private purposes	38
1897	Marquette	Chicago & N. W. R. R. Co. vs. Ellson	113 "	30.	Personal property of railroad—Seizure and sale for taxes	47

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1887	Chippewa	Chippewa Supervisors vs. Auditor General	65 Mich.	408.	Taxes rejected by Auditor General	95
1898	Muskegon	Christian vs. Soderberg	118 "	47.	Void tax sale—Fraud	73
1899	Genesee	*Church vs. Case	6 D. L. L.	857.	Riparian rights	2
1899	Muskegon	Church vs. Smith	6 D. L. N.	353.	Notice of purchase	140
1900	Mecosta	Citizens' Savings Bank vs. Auditor General	6 D. L. N.	1091.	Title of act	143
1879	Ingham	Clare County vs. Auditor General	41 Mich.	182.	Account between county and townships—Adjustment of tax account between old and new counties	87, 105
1876	Bay	Clark vs. Adams	33 "	159.	Demand by mail	46
1858	Oakland	Clark vs. Axford	6 "	182.	Assessment roll—Tax roll—Warrant—Supervisor's duty	39, 42, 47
1869	Wayne	*Clark vs. Campau	19 "	325.	Riparian rights	2
1859	Genesee	Clark vs. Crane	5 "	151.	Requirements for protection of taxpayer mandatory	M
1883	Genesee	Clark vs. Drain Commissioner	50 "	618.	Drain taxes	37
1886	Bay	*Clark vs. Green	62 "	355.	Recovery for improvements	104
1858	Genesee	Clark vs. Mowyer	5 "	462.	Notice of place of sale—Auditor General's authority over sale for taxes—County treasurer makes sale under his direction	62, 70
1886	Kent	Clay vs. Grand Rapids	60 "	451.	Principles of taxation—Assessment for local improvements	M, 36
1889	Wayne	Clee vs. Sanders	74 "	692.	Taxation for private purposes	M
1895	Wayne	Clee vs. Village of Trenton	108 "	293.	City and village taxes	* 107
1851	St. Clair	Clute vs. Barron	2 "	192.	County treasurer as purchaser—Recovery for improvements	104
1887	Berrien	*Clute vs. Fisher	65 "	48.	Riparian rights	2
1899	M's Wexford	Cockburn vs. Auditor General	6 D.L.N.	316.	Right to purchase—Refunding—Condition of purchase	84, 139
1893	Shiawassee	Cole vs. Sheip	98 Mich.	56.	Taxpayer's duty to watch proceedings—Decree of sale—Ejectment—Estoppel	M, 86
1889	Ingham	*Collar vs. Collar	75 "	414.	Proof of consideration for deed	140
1896	Huron	*Colton vs. Rupert	60 "	318.	Proof of publication	66
1881	Alcona	Comins vs. Harrisville	45 "	442.	New townships	105
1894	St. Joseph	Common Council vs. Smith	90 "	507.	Review—Village taxes	30, 107
1884	Kent	Comstock vs. Grand Rapids	54 "	641.	Taxation of cars owned by individuals—Enumeration of personal property	8, 26
1900	M's Macomb	Conley vs. Auditor General	6 D.L.N.	947.	Right to seek remedy against tax deed—Estoppel	98
1899	Macomb	Conley vs. McMillan	6 D.L.N.	317.	Premature return—Jurisdiction—Confirmation of sale	55, 66, 70
1891	St. Clair	Conley vs. St. Clair Supervisors	88 Mich.	245.	Drain taxes	37
1881	Wayne	Conn. M. L. I. Co. vs. Bulte	45 "	113.	Tax title—Attorney—Tenant—Mortgagee—Purchase by—Tax deed—Ejectment	72, 86
1897	Wayne	Conn. M. L. I. Co. vs. Wood	115 "	444.	Action to set aside—Equity—Tax sale vests absolute title in State or private purchaser—Removal of cloud—Equity—Homesteaders—Recovery for improvements—Tax homestead lands—Lands erroneously included in petition	70, 72, 104, 127, 131, 139
1879	Wayne	Connors vs. Detroit	41 "	128.	Equity—Objections to taxes—Costs—Limit of municipal tax	66, 107
1867	Van Buren	Conway vs. Twp. Board	15 "	257.	Objections to taxes, etc	66
1889	Mand	Cook vs. Auditor General	79 "	100.	Drain taxes on part paid lands	37
1887	Kent	Cook vs. Clinton	64 "	309.	Adverse possession	73
1900	Kent	Cook vs. Hall	6 D.L.N.	1070.	Petition to open decree—Laches—Rights of third parties—Action to set aside—Practice	70, 73
1886	Kent	Cooks vs. Rounds	60 Mich.	310.	Adverse possession—Payment of taxes	73
1868	Barry	Cooley vs. Waterman	16 "	366.	Purchase by owner—Void sale	72
1881	Eaton	*Coman vs. Thompson	47 "	22.	Unsevered crops	2
1889	Delta	Corning vs. Twp. of Masonville	74 "	177.	Assessment of forest products	15

1884	Newaygo	Courtright vs. Brook, Twp. Clerk	54 "	182.	Judgment against township—Duty of clerk
1882	Shiawassee	*Covert vs. Morrison	49 "	133.	Right of action
1888	Cass	Cox vs. Welcher	68 "	263.	Voluntary and involuntary payment—Protest—Recovery
1899	Bay	Coyle vs. O'Connor	6 D L.N.	583.	Service of subpoena
1872	Wayne	Crane vs. Reeder	25 Mich.	303.	Escheated lands—Estoppel
1886	Branch	*Crawford vs. Fuller	35 "	57.	Attack on judicial sale—Rights of third party
1891	Macomb	Crittenden vs. Mt. Clemens	86 "	220.	Assessment—Time—Manner—Place—Bank stocks—Condition precedent to suit to recover taxes paid
1864	Calhoun	Crittenden vs. Robertson	13 "	58.	Voting taxes
1879	Kalamazoo	Crooks vs. Whitford	40 "	599.	Resulting trust
1898	Gladwin	Croskery vs. Busch	116 "	288.	Void tax sale—Lien for amount paid—Voluntary payment—Recovery for improvements
1896	Benzie	Crystal Lake vs. Hill	109 "	246.	Liability of sureties
1881	Kent	Cuming vs. Grand Rapids	46 "	150.	Local improvements
1892	Ogemaw	Cumming Twp. vs. Ogemaw Co	93 "	314.	Account between county and township
1894	Ogemaw	Cumming Twp. vs. Ogemaw Co.	100 "	567.	Account between county and township
1885	Kalamazoo	Curtis vs. Richland	56 "	478.	Assessment of securities
1896	Lenawee	Curtiss vs. Witt	110 "	131.	Warrant—Collector's liability.—Regularity of proceedings
1884	Clinton	Daniels vs. Watertown	55 "	376.	Recovery for illegal taxes
1881	Wayne	Darmstaetter vs. Maloney	45 "	621.	Certificate of board of review—Authentication of roll
1875	Oakland	Dart vs. Barbour	32 "	267.	Fractional description
1879	Ingham	Dart vs. Woodhouse	40 "	399.	Abstract books not taxable
1891	Saginaw	Davies vs. East Saginaw	87 "	439.	Local improvements
1898	Saginaw	*Davis vs. Twp. of Frankenlust	118 "	499.	Trespass
1899	Sanilac	Dawson vs. Peter	5 D. L. N.	788.	Title under tax deed—One relying on must show valid deed and sale
1882	Ingham	Dawson vs. Twp of Aurelius	49 Mich.	479.	Drain taxes
1887	Ottawa	Day vs. Cole	65 "	129.	One in possession acquires no title by purchase
1880	Hillsdale	*Dean vs. Adams	44 "	117.	Proof of consideration for deed
1898	Shiawassee	Deerfield Twp. vs. Harper	115 "	678.	One-mill tax—Collection by suit
1896	Shiawassee	De Freese vs. Lake	109 "	415.	Purchase by life tenant
1881	St. Clair	Demill vs. Moffat	45 "	410.	Title by deed
1892	Wayne	Detroit Trans. Co. vs. Assessors	91 "	382.	Taxation of corporations—Locus
1888	Wayne	Detroit vs. Daly	68 "	503.	Apportionment—Local assessment
1891	Wayne	Detroit U. R. R. Depot & Station Co. vs. Detroit	88 "	347.	Railroad elevator—Exemption
1897	Wayne	Detroit River Savings Bank vs. Detroit	114 "	81.	Review—Estoppel
1874	Hillsdale	*Detroit, Hillsdale & Indiana R. R. vs. Forbes	30 "	165.	Redemption
1895	Kent	Detroit, G. H. & M. R. R. Co. vs. Grand Rapids	106 "	13.	Assessment of railroad right of way for local improvements
1883	Wayne	Detroit St. Ry. Co. vs. Guthard	51 "	180.	Taxation of tram railways
1880	Wayne	Detroit vs. Houghton	42 "	459.	Liability of sureties
1884	Wayne	Detroit vs. Jepp	52 "	458.	Suit for taxes
1897	Wayne	Detroit vs. Judge of Recorder's Court	112 "	588.	Local improvements
1896	Wayne	Detroit vs. Lewis	109 "	155.	Taxation of credits
1898	Wayne	Detroit vs. Macier	117 "	72.	Assessment of personal property—Locus—Misnomer
1876	Wayne	Detroit vs. Martin	34 "	170.	Payment under protest—Recovery
1854	Wayne	Detroit Y. M. Scy. vs. Mayor	3 "	172.	Exemption
1873	Wayne	Detroit vs. Weber	26 "	284.	Liability of sureties
1874	Wayne	Detroit vs. Weber	29 "	24.	Liability of sureties
1898	Ingham	Detroit Fire & Marine Ins. Co. vs. Wood	118 "	31.	County treasurer's report of sale to Auditor General—Time—Confirmation—Redemption—Application of moneys
1879	Livingston	*Dexter vs. Cranston	41 "	448.	Proof of publication
1882	Newaygo	Dickison vs. Reynolds	48 "	159.	Assessment to estate—Presumption of regularity—How overcome—Certificate of board of review—Personal demand—Return
1871	Berrien	*Donahue vs. Klassner	22 "	252.	Fractional description

82
73
44, 46
139
3, 7
84
11, 14, 53
36
72
40, 46, 104
43
36
87
87
14
47
47
30, 107
25
9
36
115
72
37
72
140
39, 40
72
86
11
36
7
30
74
36
8
43
46
36
8
13, 99
53
7
43
43
70, 74
66
3, 30, 55, 99
25

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1875	Clinton	*Doty vs. Martin	32 Mich.	462.	Consideration for deed—Proof of	140
1883	Herrien	*Dragoo vs. Dragoo	50 "	573.	Laches not imputable to incompetents	69
1882	Saginaw	Drennan vs. Bierlein	49 "	272.	Premature return	55
1885	Saginaw	Drennan vs. Herzog	56 "	467.	Deputy Auditor General's deed	72
1872	Wayne	Dubois vs. Campau	24 "	360.	Duty of payment—Purchase by tenant in common—Ejectment	3, 72, 86
1895	Saginaw	Duffy vs. Saginaw	106 "	335.	Local improvements	36
1900	Mand Monroe	Dumphy vs. Auditor General	6 D L.N.	1045.	Action to vacate sale—Report of sale—Description	70, 99
1899	Monroe	Dumphy vs. Hilton	6 D.L.N.	432.	Duty of owner of lands—Redemption	60, 74
1883	Shiawassee	Dunning vs. Calkins	51 Mich.	556.	Drain taxes—Collection of—Assessment roll	37, 39
1858	Clinton	*Dutton vs. Ives	5 "	515.	Record of instrument—Notice	135
1869	Saginaw	East Saginaw M'f'g Co. vs. City of East Saginaw	19 "	259.	Exemption	7
1890	Wayne	Eaton vs. Chesebrough	82 "	214.	Lien for city taxes	40
1888	Midland	Eddy vs. Lee Twp	73 "	123.	Remedy	114
1881	Kalamazoo	Eggleston vs. Wagnoer	46 "	610.	Description	25
1899	Oceana	Eldridge vs. Richmond	6 D.L.N.	259.	Completed purchase	84
1898	Antrim	Elk Rapids Iron Co., vs. Helena Twp	117 Mich.	211.	Assessment of forest products	15
1898	Antrim	Elk Rapids Iron Co., vs. Milton Twp	117 "	211.	Assessment of forest products	15
1900	Wayne	Elliott vs. Miller	8 "	132.	What receivable for taxes	44
1890	Kent	Ely vs. Grand Rapids	84 "	336.	Local improvements	36
1886	Kent	Emerson vs. Walker Twp	63 "	483.	Drain taxes	36, 37
1891	Osceola	Evart vs. Postal	86 "	325	Liability of sureties	43
1892	Muskegon	Eyke vs. Lange	90 "	592.	Payment of tax on stock by bank cashier	46
1895	Muskegon	Eyke vs. Lange	104 "	26.	Payment of tax on stock by bank cashier	46
1846	Washtenaw	*Farmers' and M. Bk. vs. Kingsley	2 Doug.	379.	Levy	47
1897	Wayne	Farwell vs. Bigelow	112 Mich.	285.	Payment by mortgagee	53
1887	Muskegon	Fay vs. Wood	65 "	390.	Assessment roll—Statutory certificates—Apportionment—Time—Charter requirements	37, 99, 107
1898	Bay	Featherly vs. Hoffman	117 "	42.	Proof of publication—County clerk's files	66
1885	Wayne	Fells vs. Barbour	58 "	49.	Purchase by mortgagee—Deputy Auditor General's deed—Omission to record deed	70, 72
1876	Macomb	Ferton vs. Feller	33 "	199.	Tax roll—Alteration	43
1887	Washtenaw	*Feustman vs. Estate of Gott	65 "	592.	Proof of publication	66
1899	Bay	First Baptist Church vs. Roberts	6 D.L.N.	369.	Tax Record—Entry of amounts decreed—Time—Amendment of decree before enrollment	66, 67
1881	Berrien	First Nat'l Bk of St. Joseph vs. St. Joseph Twp	46 Mich.	526.	Deduction of indebtedness—Review—Estoppel — Supervisor's warrant—Tax roll—Dollar mark	19, 30, 47, 99
1870	St. Joseph	First Nat'l Bk of Sturgis vs. Watkins	21 "	483.	Involuntary payment—Recovery	46
1872	Ionia	*Fisher vs. Provin	25 "	347.	Tenant in common—Husband and wife	6
1863	Saginaw	*Fitzhugh vs Barnard	12 "	104.	Grantee chargeable with notice	72
1896	Bay	Fitzhugh vs. Bay City	100 "	581.	Local improvements—Estoppel	36, 66
1888	Alcona	Fletcher vs. Alcona Twp	72 "	18.	Standing timber included in value of land—Redemption	2,14,27,74
1895	Alpena	Fletcher vs. Post	104 "	424.	Replevin—Misnomer	47, 99
1883	Alpena	Fletcher vs. Thunder Bay Boom Co	51 "	277.	Riparian rights	2
1879	Lake	Flint & P. M. R. R. Co. vs. Auditor General	41 "	635.	Highway tax—Illegal tax	36, 66
1879	Osceola	*Flint & P. M. Ry. Co. vs. Gordon	41 "	420	Homestead entry	131
1875	Saginaw	Flint & P. M. R. R. Co. vs. Saginaw Co. Treas	32 "	260.	Redemption - Interest—Penalty	74
1888	Clinton	*Flynn vs Flynn	68 "	20.	Consideration for deed—Proof of	140
1898	Muskegon	Foegan vs. Carpenter	117 "	89.	Incompetents	69
1879	Alpena	Folkerts vs. Power	42 "	233	Tax must be authorized by written law—Assessment roll	M, 39
1898	Menominee	Forster vs. Brown	5 D.L.N.	722.	Replevin	47

1881	Kent	*Foss vs. Van Driele	47	"	201.	Attornment	12
1894	Manistee	Fowler vs. Campbell	100	"	398.	Assessment of lands of deceased person after administration	14
			30	"	379.	Reassessment	95
1874	Ingham	French vs Lansing Common Council	6	D.L.N.	902.	Assessment for fair grounds	36
1900	Charlevoix	French vs. South Arm Twp.	55	Mich.	33.	Drain taxes	37
1884	Kent	Frost vs. Leatherman	40	"	395.	Accounting for taxes collected	52
1879	Kent	Fuller vs. Grand Rapids	110	"	549.	Payment by mortgagee	53
1895	Wayne	Fuller vs. Kane	30	"	236.	Attornment	72
1874	Kent	*Fuller vs. Sweet	6	"	17.	Record of instrument—Notice	135
1858	Wayne	*Galpin vs. Abbott	97	"	465.	Title to timber under lapsed contract to cut	14
1893	Bay	*Gamble vs. Gates	78	"	302.	Highway tax.—County tax for highways	36, 37
1889	Ogemaw	Gamble vs. Auditor General	40	"	725.	Publication—Notice—Time—Redemption	66, 74
1879	Eaton	*Gantz vs. Towles	118	"	387.	Proof of publication—State tax land books—Time—Publication of list of State tax lands not required—Tax deed.	66, 70, 78, 79, 82
1898	Huron	Garner vs. Wallace					110
			110	"	94.	Compensation of county clerk	
1896	Newaygo	Gardner vs. Newaygo Co. Super's	6	D.L.N.	615.	Certified copy of decree—Entry of amount decreed—Estoppel—Ejectment—Time for hearing objections	86, 139
1899	Sanilac	Gates vs. Johnson					47
			40	Mich.	336.	Involuntary payment	66
1879	Saginaw	Gebhart vs. East Saginaw	37	"	143.	Proof of publication	
1877	St Joseph	*Gillett vs. Needham	18	"	145.	Description—Right of purchase at tax sale—Limitations under tax deed	25, 72, 73
1869	Wayne	Gillman vs. Riopelle					36
			114	"	671.	Assessment for fence viewer's expenses	36
1897	Lenawee	Gilson vs. Munson	12	"	279.	Local improvements	36
1864	Wayne	Goodrich vs. Detroit	7	D.L.N.	11.	Local improvements	36
1900	Wayne	Goodrich vs. Detroit	103	Mich.	283.	Local improvements	73
1894	Wayne	Goodwillie vs. Detroit	21	"	211.	Action to set aside—Laches	99
1870	Bay	*Goodwin vs. Burns	97	"	413.	Equalization record of	
1893	Mackinac	Goudreau vs. City of St. Ignace	67	"	652.	Taxation of corporation—Vessels, what exempt.—Taxation of personal property of non-resident	5, 8, 10
1888	Berrien	Graham vs. St. Joseph Twp.					53
			40	"	367.	Suit to recover taxes paid under protest	47, 99
1879	Kent	Grand Rapids vs. Blakely	85	"	234.	Suit for taxes—Warrant—Tax roll	77
1891	Kent	Grand Rapids vs. Welleman	26	"	201.	Good faith acts under tax deed	47
1872	Saginaw	Grant vs. Smith	96	"	62.	Replevin—Conveyance to defeat collection	74
1898	St. Clair	Gray vs. Finn	27	"	152.	Redemption	77
1873	St. Clair	*Greeley vs. Stilson	33	"	268.	Void tax title—Bill to remove cloud	107
1876	Muskegon	Griswold vs. Fuller	117	"	317.	Assessment to pay judgment	29, 30, 55
1898	Mason	Griswold vs. Ludington Common Council	24	"	262.	Board of review—Warrant—Extension	70, 72, 73
1872	Bay	Griswold vs. School District	13	"	329.	Public records—Tax deed—Tax title—Adverse possession—Limitations	104
1865	Wayne	Groesbeck vs. Seeley					98
			48	"	307.	Recovery for improvements	73
1882	Saginaw	*Guild vs. Kidd	6	D.L.N.	668.	Void tax title—Sale in contravention of law—Remedy	47
1899	Mand.Ottawa	Gurd vs. Auditor General	54	"	511.	Action to set aside—Laches	87
1884	Macomb	*Haff vs. Jenney	34	"	1.	Remedy for unlawful levy	87
1876	St. Joseph	Hagenbuch vs. Howard	87	"	237.	Account between county and townships	
1891	Saginaw	Haines vs. Supervisors	99	"	32.	Account between county and townships	72
1894	Saginaw	Haines vs. Supervisors	117	"	617.	Annual tax sale—County treasurer cannot purchase or act for purchaser—Clerk cannot sell	
1898	Roscommon	Hall vs. Collins					37, 73
			16	"	135.	Assessment for agricultural societies—Limitations—Possession	
1867	Allegan	Hall vs. Kellogg					66, 67, 70
			118	"	201.	Actual notice—Default of vendee—Non-resident—Action to set aside—Non-enrollment of decree—Appeal—Duty of purchasers	84
1898	Muskegon	Hall vs. Mann					115
			6	D. L. N.	633.	Questions foreclosed by decree	
1899	Muskegon	Hall vs. Mann	6	D. L. N.	672.	Trespass	
1899	Marquette	*Hall vs. Nester					

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1870	Calhoun	*Hall vs. The People	21 Mich.	456.	Proof of public records	99
1888	Marquette	Hall vs. Perry	72 "	202.	Tax law 1885 prospective only	
1899	Luce	Hall & Munson Co. vs. Auditor General	6 D. L. N.	292.	Premature decree...¶	139
1889	Muskegon	Hamilton vs. Ames	74 Mich.	298.	Review—Estoppel	30
1895	Baraga	Hamilton & Merryman Co. vs. L'Anse Twp	107 "	419.	Highway tax—Removal of cloud conditioned on payment of tax	30, 72
1870	Van Buren	Hammond vs. Hannin	21 "	374.	Proof of payment	46, 84, 98
1898	Muskegon	Hammond vs. Place	116 "	628.	Assessment for judgment against municipality	107
1897	Mand. St. Clair.	Hand vs. Auditor General	112 "	597.	Mistake of officer - Withholding tax deed	98
1874	Wayne	Harbaugh vs. Martin	30 "	234.	Drain taxes	37
1889	Allegan	Harding vs. Bader	75 "	316.	Township board—Authority—Record—Voting taxes Township taxes—Apportionment	36, 37
1879	Livingston	Hardy vs. Powell	40 "	413.	Limitations	73
1895	Kent	Harper vs. Grand Rapids	105 "	551.	Local improvements	36
1892	St. Clair	Harrington vs. Fish	10 "	415.	Description—Abbreviations	25
1873	Wayne	Harrington vs. Hilliard	27 "	271.	Taxes—When a charge Obligation to pay taxes	40, 46
1896	St. Clair	Harrison vs. Spencer	110 "	215.	Limitation—Action of ejectment	73, 86
1898	Schoolcraft	Harrison vs. Supervisors	117 "	215.	Boundaries of townships	105
1868	Ingham	Hart Twp. vs. Henderson	17 "	218.	Curative statutes	99
1880	Oceana	Hart Twp. vs. Oceana Co.	44 "	417.	Assessment to pay county tax embezzled—Liability of township treasurer for county tax	33, 36, 43
1874	Hillsdale	*Hartford Fire Ins. Co. vs. Owen	30 "	441	Substituted service	140
1883	Ingham	Harwood vs. Drain Commissioner	51 "	639.	Laches—Estoppel	66
1874	Lenawee	*Harwood vs. Underwood	28 "	427.	Redemption	74
1897	Kent	Hatch vs. Reid	112 "	430.	Loan by treasurer applied to payment of tax	44
1899	Ingham	Haven vs. Owen	6 D. L. N.	293.	Order of hearing—Tax deed—Collateral attack	62, 86
1890	Monroe	Hecock vs. Van Dusen	80 Mich.	359.	Tax roll—Certificate of equalization - Rights under tax deed - Color of title	42, 72
1891	Mecosta	Hembling v. Big Rapids	89 "	1.	Local improvements	36
1874	Livingston	Henry vs. Gregory	29 "	68.	Levy	47
1884	Mecosta	Herrick vs. Big Rapids	53 "	554.	Assessment of property in hands of executor Action to recover taxes paid under protest	14, 53
1880	Saginaw	Hess vs. Griggs	43 "	397.	Tax deed	72
1888	Chippewa	Hill vs. Graham	72 "	659.	Assessment of partnership property—Replevin—Voluntary payment—Protest	12, 47, 53
1882	Shiawassee	Hill vs. Wright	49 "	229.	Replevin—Redress for illegal tax levy	47
1897	Saginaw	Hillyer vs. Jonesfield	114 "	644.	Drain taxes—Action to recover drain tax paid	37, 53
1897	Monroe	Hilton vs. Dumphy	113 "	241.	Drain taxes—Confirmation of sale—Collateral attack—County treasurer's report to clerk	37, 70
1895	Montcalm	Hinds vs. Belvidere Township	107 "	644.	Misnomer—Irregularities—Review—Estoppel—Action to recover taxes paid under protest	30, 53, 99
1856	Wayne	Hinman vs. School District	4 "	168.	Power to levy school tax	36
1868	Wayne	Hobart vs. Detroit	17 "	246.	Local improvements	36
1870	St. Clair	Hoffman vs. Beard	22 "	59.	Redemption	74
1893	St. Clair	*Hoffman vs. Buschman	95 "	538.	Homestead rights	131
1873	St. Clair	Hoffman vs. Harrington	28 "	90.	Tax deed—Action for trespass	77
1895	Oscoda	Hoffman vs. Lynburn	104 "	494	Equalization—Highway tax Apportionment—Record of	34, 36, 37, 99
1897	Iosco	Hoffman vs. Pack, Woods & Co.	114 "	1.	Action on tax deeds—Practice	77
1900	Iosco	Hoffman vs. Pack, Woods & Co.	6 D.L.N	954.	Tax deed—Record of decree—Loss of files—Collateral attack—Defeat of jurisdiction—County treasurer's deed	86, 99, 124

1877	Allegan	Hogelskamp vs. Weeks	37 Mich.	422.	Assessment for agricultural societies.—Highway tax.—Absence of official records—Legal presumption	37,39,99	
1868	Kalamazoo	*Hogsett vs. Ellis	17 "	351	Mortgage no title		3
1889	Wayne	Home and Day School vs. Detroit	76 "	521.	Exemption		7
1886	Mecosta	Hood vs. Judkins	61 "	575.	Occupancy.—Assessment of forest products.—Replevin	3,15,47	
1898	Wayne	Hooker vs. Bond	118 "	255.	Demand for taxes.—Order pro confesso—Final decree—Time—Certified copy of decree in Tax Record—Non-enrollment of decree—Entry of	46,66,67,99	
1865	Berrien	Horton vs. Ingersoll	13 "	409.	Purchase by mortgagee		72
1893	Kalamazoo	*Horton vs. Monroe	98 "	195.	Proof of publication		66
1898	Ingham	Hough vs. Auditor General	116 "	663.	Sale after tender of payment—Mistake of officer		98
1877	Houghton	Houghton Co. vs. Auditor General	36 "	271.	County Treasurer's transcript—Time—Credit to county		57
1879	Houghton	Houghton Co. vs. Auditor General	41 "	28.	Strict construction of tax law where departure would prejudice.—Time for tax sale		M. 70
1876	Houghton	Houghton Co. Supervisors vs. Rees	34 "	481.	Returns—Time—County treasurer's transcript		57
1898	Berrien	Houser vs. Hurbank	117 "	463.	Drain taxes		37
1890	Muskegon	Hovey vs. Gow	81 "	314.	Assessment of forest products		14
1879	Berrien	*Howard vs. Bond	42 "	131.	Writ of assistance		72
1877	Cass	Howell vs. Cassopolis	35 "	471.	Taxation of shares—Locus—Village charter	8,14,107	
1869	Saginaw	Hoyt vs. East Saginaw	19 "	39.	Local improvements		36
1899	Huron	Hubbard vs. Auditor General	6 D.L.N.	258.	Incomplete application—Payment by check—Certificate of error		84,98
1898	Charlevoix	Hubbard vs. Shepard	117 Mich.	25.	Ejectment—Estoppel		36
1896	Huron	Hubbard vs. Winsor	15 "	146.	Assessment of partnership property—Description—Sessions of board of supervisors—Manner of fixing amount to be raised—Assessment roll—Warrant—Time	12,25,37,99	
1884	Lenawee	Hudson Common Council vs. Whitney	53 "	158.	Tax proceedings not reviewable on certiorari		31
1898	Muskegon	Hughes vs. Jordan	118 "	27.	Demand for taxes.—Condition of purchase		46,139
1879	Osceola	Hunt vs. Chapin	42 "	24	County clerk's certificate to transcript of returns—Tax deed for different years		57,84
1895	Eaton	Husted vs. Willoughby	117 "	56.	Description—Boundaries		25
1894	Kent	*Ice and Coal Co. vs. Ice and Coal Co	102 "	227.	Riparian rights		2
1844	St. Joseph	Ingerson vs. Starkweather	Walkers.	346.	Agency—Estoppel		72
1891	Tuscola	In re Petition of Wiley	89 Mich.	58.	Jurisdiction		66
1898	Iron	Iron Star Co. vs. Wehse	117 "	487.	Levy on property of corporation		47
1898	Mand	*Insurance Co. vs. Raymond	70 "	485.	Title of act		T
1898	Jackson	Jackson vs. County Treasurer	117 "	305.	Irregularities in returns		55
1862	Wayne	Jackson vs. Detroit	10 "	248.	Local improvements		36
1898	Wayne	Jackson vs. Sloman	117 "	126.	Description—Platted lands—Certificate of error		25,98
1880	Isabella	Jeffery vs. Hursh	45 "	59.	Right to purchase		72
1897	Ottawa	Jenison vs. Conklin	114 "	9.	County treasurer's report of sale, to clerk.—Void tax sale		70,77
1895	St. Clair	Jenkinson vs. Auditor General	104 "	34	Order pro confesso—Decree of sale—County treasurer's report of sale, to clerk—Place of filing—Decree setting aside sale—Equity	66,67,70,73	
1896	St. Clair	Jenkinson vs. Winans	109 "	524.	Attornment		72
1893	St. Clair	Jenks vs. Horton	96 "	13.	Assessment to life tenant		3
1880	Lapeer	*Jenness vs. Lapeer C. J	42 "	469.	Irregularities		99
1899	St. Clair	Jenney vs. Mussey Township	6 D.L.N.	433.	Drain taxes		37
1894	Shiawassee	Jennings vs. Dockham	99 Mich.	253.	Tax deed—Ejectment		86
1879	Berrien	Jewett vs. Morris	41 "	689.	Action to set aside—Rights of third parties		73
1873	Allegan	*Johnson vs. Moore	28 "	3.	Redemption		74
1883	Alpena	Johnston vs. Cathro	51 "	80.	School tax—District including lands in another county		36
1878	St. Clair	Johnston vs. Kimball Township	39 "	187.	Township treasurer—Bond—Liability of sureties		43
1877	Kent	*Johnston vs. Knapp	35 "	307.	Redemption		74
1863	Bay	Johnston vs. Scott	11 "	232.	Tax receipt—Description		46,99

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1893	Iron	*Jones vs. Iron Co.	96 Mich.	98.	Actual knowledge	18
1886	St. Joseph	*Jones vs. Pashby	62 "	614.	Description and government survey defined	25
1876	Wayne	Jones vs. Water Commissioners, Detroit	34 "	273.	Local improvements	36
1876	Mand.	Jones vs. Wright	34 "	371.	School taxes—What receivable for taxes	36,44
1893	Ingham	Judson vs. Duffey	96 "	255.	Adverse possession	73
1895	St. Clair	Judson vs. Miller	106 "	140.	Purchaser under tax deeds	72
1898	Kalamazoo	Kalamazoo vs. Francoise	115 "	554.	Local improvements	36
1890	Kalkaska	Kalkaska Township vs. Fletcher	81 "	446.	Title to property under attachment.—Assessment —Locus	13,14
1894	Houghton	*Kehl vs. Dunn	102 "	581.	Piano	9
1863	Kalamazoo	*Kellogg vs. Putnam	11 "	344.	Decree in chancery	67,73
1879	Shiawassee	*Kelso vs. Saxton	40 "	666.	Error in favor	99
1872	Mand. Wayne	*Kennedy vs. Gies	25 "	82.	Construction of statutes	M
1868	Kalamazoo	*Kenyon vs. Baker	16 "	373.	Exemption	9
1899	Gogebic	Keweenaw Association vs. O'Neil	6 D.L.N.	124.	Intermingling property with that of another	113
1894	Houghton	Keweenaw Association vs. School District	98 Mich.	437.	Taxation for school building—School taxes	36
1897	Monroe	Kiley vs. Bond	114 "	447.	Drain taxes	37
1899	Wayne	*Kimball vs. Ranney	6 D.L.N.	690.	Agency—Estoppel	72
1869	St. Clair	King vs. Harrington	18 Mich.	213.	Limitations under tax deed	73
1869	St. Clair	King vs. Potter	18 "	134	Lands surveyed as lots.—Descriptions in deed—Ejectment—Compensation for improvements	25,72,104
1873	Washtenaw	Kitson vs. Mayor, etc.	26 "	324.	Tax on business or occupation	24
1882	Ionia	*Knapp vs. Woolverton	47 "	292.	Unsevered crops	2
1897	Gd. Traverse	Kneeland vs. Auditor General	113 "	63.	Sale after payment	98
1898	Gd. Traverse	Kneeland vs. Hull	116 "	55.	Platted lots—Decree of sale—Record of sale	66,71
1898	Gd. Traverse	Kneeland vs. Hyman	118 "	56.	Certificate of no taxes—Remedy	98
1898	Gd. Traverse	Kneeland vs. Wood	117 "	174.	Action to set aside sale—Attempt to pay—Remedy—Certificate of error—Proof required—Time	70,86,98
1856	Ingham	Lacy vs. Davis	4 Mich.	140.	Supervisors' authority to levy tax—Township tax—Penalty—Tax deed—One in possession acquires no title by purchase—Effect of tax title—Cumulative title—Records—Legal presumption	39, 42, 50, 72, 77, 99.
1865	Clinton	Laing vs. McKee	13 "	124.	Redemption—Fraud	74
1897	Baraga	Laird vs. Coach	112 "	628.	Tax deed for undivided interest	72
1865	Schoolcraft	Lake Superior C. R. & I. Co. vs. Thompson	56 "	493.	Highway tax	36
1894	Kent	L. S. & M. S. R. R. Co. vs. Grand Rapids	102 "	374.	Assessment of terminal property of railroad—Local improvements	36
1889	Muskegon	Laketon Township vs. Akeley	74 "	605.	Suit for taxes	47
1898	St. Joseph	Lanning vs. Palmer	117 "	529.	Drain taxes	37
1896	Ingham	Lansing vs. Board of State Auditors	111 "	327.	Assessment of State property	7
1872	Ingham	Lansing vs. Van Gorder	24 "	456.	Local improvements	4, 36
1893	Jackson	Lantis vs. Reithmiller	95 "	45.	Replevin	47
1895	Kent	Laubach vs. O'Meara	107 "	29.	Drain taxes—Supervisor's duty	37, 39
1889	Isabella	Leaton vs. Murphy	78 "	77.	Rule of sale on levy	47
1899	Wayne	Ledyard vs. Auditor General	6 D.L.N.	278.	Hearing on petition—Time—Jurisdiction	62
1853	Wayne	Le Fevre vs. Mayor	2 Mich.	586.	Exemption—House of public worship.—Description	7, 25
1898	Monroe	*Lemerand vs. F. & P. M. R. R. Co.	117 "	309.	Recovery for improvements	104
1887	Lenawee	Lenawee County Bank vs. Adrian City	66 "	273.	Shares of bank stock	8
1864	Kent	*Leonard vs. Taylor	12 "	398.	Setting aside decree—Laches	76
1869	Saginaw	Leroy vs. East Saginaw City Railway	18 "	233	Warrant—Liability of collector—Replevin	47
1875	Delta	Ligare vs. Semple	32 "	437.	Owner acquires no title by purchase	72
1898	Muskegon	Lillie vs. Snow	118 "	611.	Bill to quiet title under tax deed—Attornment	72
1884	Alpena	*Lincoln vs. Davis	53 "	375.	Riparian rights	8

1888	Wayne	Lindsay vs. Eastwood	72	"	336.	Drain taxes—Supervisor's duty—Lien	37, 39, 40
1872	Kent	Linsley vs. Sinclair	24	"	380.	Resulting trust	72
1898	Kent	Long vs. Landman	118	"	174.	Duty of executor to pay taxes	46
1888	Ontonagon	Longyear vs. Auditor General	72	"	415.	Voting highway tax	36
1884	Presque Isle	Loomis vs. Rogers Township	53	"	135.	Raising money by tax or loan	37
1893	Monroe	Looke vs. Navarre	95	"	603.	Void tax title	72
1898	Oscoda	Loud & Sons Lumber Co. vs. Hagar	118	"	452.	Assessment of land—Warrant—Misnomer	3, 99
1899	Montmorency	Loud & Sons Lumber Co. vs. Vienna Township	6	D.L.N.	165.	Estoppel	47
1900	Oscoda	Loud & Sons Lumber Co. vs. Elmer	6	"	949.	Conveyance to avoid taxation	3
1879	Saginaw	Louden vs. East Saginaw	41	Mich.	18.	Taxpayers assumed to know the law—Voluntary payment—Action to recover taxes paid under protest—Error must prejudice	M, 46, 53, 99
1897	Delta	Ludington vs. Escanaba	115	"	288.	Assessment and tax roll	99
1899	Mason	Ludington Water Supply Co vs. Ludington City	5	D.L.N.	891.	Exemption	7
1893	Alpena	Lumber Co. vs. Alpena City	97	Mich.	499.	Right of recovery of tax paid under protest	53
1894	Charlevoix	Lumber Co. vs. East Jordan	100	"	201.	Local improvements	36
1894	Manistee	Lumber Co. vs. Manistee	100	"	466.	Right of recovery to tax paid under protest—Remedy for unauthorized levy	53
1893	Iosco	Lumber Co vs. Oscoda Village	97	"	221.	Statement of taxable property—Warrant—Renewal—Assessment by initials of corporate title	18, 55, 99
1892	Manistee	Lundbom vs. Manistee City	93	"	170.	Local improvement—estoppel	36, 66
1883	Wayne	Lyon vs. Receiver of Taxes	52	"	271.	Personal tax against insolvent estate—Payment under protest—Recovery—Levy on goods assigned	44, 46, 47
1894	Ingham	*McCammon vs. R. R. Co	103	"	104.	Auction sale	79
1879	Kent	*McCombs vs. Merryhew	40	"	721.	Trial of rights before dispossession	73
1882	Osceola	McCoy vs. Anderson	47	"	502.	Replevin	47
1875	St. Clair	McCredie vs. Buxton	31	"	383.	Wanton expenditures for improvements	104
1886	Delta	McDonald vs. Escanaba	62	"	535.	Duty of board of supervisors in equalization	34
1899	Baraga	McFadden vs. Brady	6	D.L.N.	283.	Proof of publication—County treasurer's report of sale, to clerk	66, 70, 98
1892	Wexford	McFarlan vs. Cedar Creek Township	93	Mich.	558.	Highway tax—Payment under protest	36, 53
1899	Luce	McGinley vs. Calumet & Hecla Mining Co	6	D.L.N.	292.	Premature decree	66, 139
1877	Kent	*McGoren vs. Avery	37	Mich.	119.	Purchaser at judicial sale	72
1873	Kalamazoo	*McKee vs. Campbell	27	"	497.	Involuntary payment	46
1897	Monroe	McKenzie vs. Cook, A. P. Co., Ltd.	113	"	453.	Purchase by mortgagor—Limitation of action	84
1895	Otsego	McKinnon vs. Meston	104	"	642.	Right to defend title	72
1890	Eaton	McKisson vs. Davenport	83	"	211.	Purchase by mortgagor	72
1889	St. Clair	McMorran vs. Wright	74	Mich.	356.	Board of review	107
1888	Jackson	McNaughton vs. Marin	72	"	276	Tax law 1885 prospective only	139
1890	Manistee	Manistee City vs. Harley	79	"	238.	Local improvements	36
1892	Kalkaska	Manistee Lumber Co. vs. Springfield Twp	92	"	277.	"Township" defined—Voluntary payment—Estoppel	25, 53
1899	Saginaw	Mann vs. Carson	6	D.L.N.	288.	Description—Petition for decree—Filing—Publication in supplement—Proof of publication—County clerk's files—Lands bid to state—Right of sale—Title under tax deed—Writ of assistance—Error of county treasurer	25, 61, 66, 68, 72
1883	Marquette	*Marquette Co. vs. Ward	50	Mich.	174.	Liability of sureties	43
1898	Menominee	Martin Lumber Co. vs. Menominee C. J	116	"	354.	Suit for taxes	47
1890	Shiawassee	Mason vs. Hazelton Township	82	"	440	Account between state, county and townships—Taxes charged back—Interest—No outlawry—Reassessment of drain tax	95
1897	Muskegon	Mason vs. Muskegon	111	"	687.	Suit against city for taxes paid under protest	53
1890	Shiawassee	Mason vs. New Haven Township	92	"	435	Drain taxes—Reassessment of drain tax	37, 96
1894	Berrien	Matrau vs. Tompkins	99	"	528.	Action to recover drain tax paid	53
1892	Ogemaw	Maurer vs. Cliff	94	"	194.	Assessment of forest products—Right of review	15, 30
1881	Saginaw	Maxfield vs. Willey	46	"	252.	Purchase by mortgagor or mortgagee	72

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1868	Bay	Maxon vs. Perrott	17 Mich.	382.	Dentist's tools	9
1884	Bay	*Maxwell vs. Paine	53 "	30.	Certificate of equalization	34
1890	Saginaw	Meade vs. Haines	81 "	261.	Assessor to exercise judgment as to whom lands should be assessed—Liability for errors—Review—Estoppel	24, 30
1876	Oceana	Mears vs. Howarth	34 "	19.	Unlawful levy	47
1882	Lenawee	Medina vs. Perkins	48 "	67.	Exercise of duties of township officers—Assessor cannot ignore common sense	M, 24
1899	Menominee	Menominee vs. Martin S. K. Lumber Co.	5 D.L.N.	771.	Collection by suit—Appeal	40, 67
1871	Osceola	Merrill vs. Auditor General	24 Mich.	169.	Over-valuation—Assessor's duty - Action to set aside taxes	24, 144
1872	Calhoun	*Merrill vs. Montgomery	25 "	72.	Substituted service	140
1878	Calhoun	*Merritt vs. Dickey	38 "	41.	Partnership lands	12
1897	Schoolcraft	Mersereau vs. Miller	112 "	103.	Tax Record—Place of deposit—"County clerk" and "Register" same officer	67
1888	Newaygo	Michigan Dairy Co. vs. McKinlay	70 "	574.	Alternative assessment	11
1886	Baraga	Michigan Land, etc. Co. vs. L'Anse Township	63 "	700.	Highway tax	36
1887	Marquette	Michigan Land, etc. Co. vs. Republic Township	65 "	628.	Record—Presumption of regularity—Highway tax - Notice of protest	36, 53
1895	Wayne	Michigan Savings Bank vs. Detroit	107 "	246.	Board of review—Estoppel—Recovery of tax paid under protest	30, 53
1842	Wayne	*Michigan State Bank vs. Hastings	Walker	9.	State property	7
1873	Midland	Midland Co. Sup. vs. Auditor General	27 Mich.	165.	Taxes charged back - Executive discretion	95
1879	Midland	Midland School Dist.	40 "	551.	School taxes	36
1878	Midland	Midland vs. Roscommon	39 "	110.	Taxes for future	M
1894	Ingham	Millard vs. Truax	99 "	424.	Decree—Dollar mark—County treasurer's report, to clerk—Tax record	67, 70, 139
1875	Clinton	Miller vs. Aldrich	31 "	157.	Assessor's duty - Equity	24, 73
1899	Kalkaska	Miller vs. Brown	6 D.L.N.	408.	Lack of jurisdiction to enter decree	139
1895	Mackinac	Miller vs. Davis	106 Mich.	659.	Adverse possession—Payment of taxes	53
1848	Washtenaw	*Millerd vs. Reeves	1 "	300.	Redemption	74
1893	Wayne	*Mills vs City of Detroit	95 "	422.	Publication—Notice	66
1888	Ogemaw	Mills vs. Richland Twp	72 "	100.	Record of tax levy—Certificate of board of review—Township taxes - Highway tax—Voluntary payment—Suit to recover—Records—Evidence of official action—Presumption of regularity	M, 30, 36, 53, 99
1879	St. Clair	Mills vs. Van Camp	41 "	645.	Levy and sale	47
1897	Marquette	Mitchell vs. Negaunee	113 "	359.	Municipal taxation	107
1890	Clinton	Mogg vs. Hall	83 "	576.	Warrant—Collector's liability	47
1886	Mand	Molles vs. Watson	60 "	415.	School taxes	36
1884	Montcalm	Monroe vs. Greenhoe	54 "	9.	Assessment of forest products	15
1900	Montmorency	*Montmorency Co. vs. Putnam	6 D.L.N.	895.	Liability of sureties	43
1900	M. Ontonagon	Moore vs. Auditor General	6 D.L.N.	872.	Condition of purchase—Payment of tax by check - Priority	139
1894	Wayne	Moore vs. Detroit	103 Mich.	292.	Local improvements	36
1895	Ingham	Moore vs. McIntyre	110 "	237.	Estoppel	66
1860	Wayne	*Moore vs. Mandlebaum	8 "	433.	Agency—Estoppel	72
1884	Macomb	*Moran vs. Lezotte	54 "	83.	Description	25
1895	Charlevoix	Moret vs. Mason	105 "	340.	Entry under void tax title for sole purpose of cutting timber	72
1899	Gd. Traverse	Morgan vs. Tweddle	5 D.L.N.	820.	Tax Record—Entry of amounts decreed	66
1874	Macomb	Moser vs. White	29 Mich.	59.	Record of tax levy	M

1880	Sanilac	Moss vs. Cummings	44	"	359.	Assessment roll—Omission of property—False valuation—Law protects assessor who exercises best judgment—Assessments—Warrant—Suit against collecting officer—Action to recover taxes paid	24, 47, 53
1869	Wayne	Motz vs. Detroit	18	"	495.	Assessment for local improvement	24, 36
1860	St. Joseph	*Mowrey vs. Vandling	9	"	39.	Consideration for deed	140
1897	Kalkaska	Muirhead vs. Bergland	111	"	655.	Hearing on petition - Continuance—Jurisdiction	67
1897	Kalkaska	Muirhead vs. Sands	111	"	487.	Validity of act—Sale for taxes—Advertised list—Dollar mark—Proof of publication - Personal service—Decree—Surplusage—Questions foreclosed by decree—Redemption	60,66,67,74
1878	Bay	Munger vs. Clerk Bd. of Sup. Bay Co.	38	"	307.	Compensation of county treasurer	90
1887	St. Clair	Murray vs. Hudson	65	"	670.	Adverse possession	73
1900	Muskegon	Muskegon vs. Boyce	6	D.L.N.	1096.	Setting aside assessment—Fraud—Excessive levy	76
1895	Muskegon	Muskegon vs. Lange	104	Mich.	19.	Payment of tax on stock by bank cashier	46
1891	Muskegon	Muskegon vs. Martin Lumber Co.	86	"	625.	Suit for taxes—Curative statute	47, 99
1900	Muskegon	Muskegon City vs. Muskegon Co.	6	D.L.N.	1046.	City and township liable for full amount of personal taxes	56
1897	Muskegon	Muskegon City vs. Soderberg	111	Mich.	559.	Account between county and city	87
1887	St. Joseph	*National Bank vs. Fonda	65	"	533.	Proof of publication	56
1884	Marquette	Neeley vs. Rood	54	"	134.	Payment to county treasurer for Auditor General	84
1895	Saginaw	Nelson vs. Saginaw	106	"	659.	Local improvements—Review—Estoppel	36, 107
1899	Houghton	Nester vs. Church	6	D.L.N.	284	Proof of publication—Vacating sale—Questions foreclosed by decree	66, 70, 73
1900	Newaygo	Newaygo Mfg. Co. vs. Echtinaw	81	Mich.	416.	Voting taxes—Record of township board—Township bonds fixed charges.—Highway tax.—Recovery for improvements	36, 104
1890	Newaygo	Newaygo Mfg. Co. vs. Stevens	79	"	398.	Right of assignee in bankruptcy to purchase	84
1868	Wayne	*Newberry vs. D. N. & S. Iron Co.	17	"	141.	Levy on shares	47
1888	Wayne	Newkirk vs. Fisher	72	"	113.	Presumption of regularity, how overcome	30
1872	Saginaw	Nickodemus vs. City E. Saginaw	25	"	436.	Involuntary payment—Recovery	46
1880	Ingham	*Nims vs. Sherman	43	"	45.	Attornment	72
1900	Iron	Northwestern Cooperage & Lum. Co. vs. Scott.	6	D.L.N.	1055.	Replevin—Unverified return—County treasurer's warrant	56, 47
1892	Huron	Nugent vs. Erb	90	Mich.	278.	Drain taxes	37, 39
1882	Oceana	Oceana Co. vs. Hart Twp.	48	"	319.	Accounting by township treasurer—Liability of township for default—Account between county and township—Tax to pay default of township treasurer	55, 87
1889	Mand	Ontonagon Sups. vs. Gogebic Sups.	74	"	721.	Apportionment of state tax	35
1897	Oakland	Orion Twp. vs. Axford	112	"	179.	Suit for taxes assessed to executors	47
1892	Mackinac	Orth vs. St. Ignace	92	"	332.	Equalization—Record of	99
1894	Bay	Osborn vs. Potter	101	"	300.	Buildings on leased land	8
1896	Gratiot	Ostrander vs. Board of Supervisors	111	"	64.	Assessors in cities of the fourth class	10
1888	Otsego	Otsego Lake vs Kirsten	72	"	1.	Liability of sureties	43
1888	Ottawa	Ottawa Supervisors vs. Auditor General	69	"	1.	Account between state and county—Redemption money	87
1877	Presque Isle	Pack vs. Presque Isle, Supervisors of	36	"	377.	Voting tax for county building	37
1860	Montcalm	Page vs. Webster	8	"	263.	Purchase by tenant in common	72
1890	St. Clair	Paldi vs. Paldi	84	"	346.	Assessment roll—Record of equalization	24, 34
1893	St. Clair	Paldi vs. Paldi	95	"	410.	Adverse possession	73
1867	Jackson	Palmer vs. Napoleon Twp.	16	"	176.	Equity	66
1864	Wayne	Palmer vs. Rich	12	"	414.	Record of tax levy—County treasurer agent of Auditor General in making annual tax sale	M, 70
1889	Mason	Pardee vs. Freesoil Twp.	74	"	81.	Assessment of forest products	15
1872	Van Buren	Paw Paw vs. Egleston	25	"	36.	Township treasurer's bond—Liability of sureties	43
1870	Genesee	Payne vs. Avery	21	"	524.	Payment by mortgagee	53
1876	Kent	*Peck vs. Houghtaling	35	"	126.	Clerical error	99
1886	Marquette	Peninsula Iron Co. vs. Crystal Falls	60	"	79.	Voluntary payment—Payment under protest—Suit to recover—Mistake of judgment of assessor not reviewable	46, 53, 66

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1886	Marquette	Peninsula Iron Co. vs. Crystal Falls	60 Mich.	510.	Assessor not required to perform impossibilities—Review—Estoppel—Township clerk's certificate—Township board—Voting township expenses—Township taxes.—Highway tax	24, 30, 36
1898	Presque Isle.	Peninsular Savings Bank vs. Ward	118 "	87.	Hearing on petition—Time for objections—Tax deed—Collateral attack	61, 66, 139
1899	Wayne	Peninsular Savings Bank vs. Ward	6 D.L.N.	311.	Collateral attack	86
1865	Wayne	*People vs. Board of Auditors	13 Mich.	233.	Compensation of county officers	90
1878	Wayne	People vs. Bringard	39 "	22.	Embezzlement by township treasurer	117
1870	Ingham	*People vs. Com'r. St. Land Office	19 "	470.	Insufficient application—Priority—Payment by draft	84
1886	Oakland	*People vs. Gadway	61 "	285.	Title of act	T
1866	Wayne	*People vs. Highway Com'r. of Nankin	14 "	528.	Affidavit of posting	64
1871	Wayne	*People vs. Huribut	24 "	44.	Title of act	T
1871	St. Clair	People vs. Johr	22 "	461.	County treasurer's bond—Approval	93, 94
1865	Wayne	People vs. Mahaney	13 "	495.	Title of act—Municipal taxation	T, 107
1869	Cass	People vs. Porter and Calvin Twps.	18 "	101.	Assessment for township liability on bonds	36
1868	Mand.	*People vs. Pritchard	17 "	338.	Official discretion	84
1899	Bay	People vs. Reigel	6 D.L.N.	61	Compensation of county treasurer	90
1885	Wayne	*People vs. Scott	56 Mich.	154.	Error not presumed	99
1898	Gladwin	People vs. Seeley	117 "	263.	What receivable for taxes	44
1860	Wayne	People vs. Treasurer of Detroit	8 "	14	Redemption	74
1859	St. Clair	People vs. Tyler	7 "	161.	Jurisdiction to tax	1
1869	Mand. Gratiot	People vs. Wright	19 "	351.	Authority of board of supervisors	37
1851	Mand. Cass.	*People vs. Le Grange	2 "	186.	Place of posting notice	64
1865	M. Shiawassee	People ex rel Colby vs. Woodhull Twp. Bd. of	14 "	28.	Voting taxes	36
1859	Mand. Lapeer	*People ex rel. Cummings vs. State Treas.	7 "	366.	Occupancy	3
1863	Mand. Ottawa	People ex rel. Plugger vs. Overyssel Twp.	11 "	222.	Agency—Estoppel—Public officer	72
	Mand. Calhoun	People ex rel. Sweet vs. Adam. Aud. Genl.	3 "	427.	Authority of Auditor General—Certificate of error	98
1860	Mand. St. Clair.	People ex rel. Throop vs. Auditor General	9 "	134.	Military bounty land—Rejection of taxes by Auditor General—Charged back taxes—Reassessment	J, 95, 96
1880	Bay	*Perkins vs. Keller	43 "	53.	Publication and notice	66
1881	Kent	Perkins vs. Nugent	45 "	156.	Limitations—Adverse possession	73
1875	Muskegon	Perley vs. Muskegon Co.	32 "	132.	Liability of sureties—County treasurer's liability for county funds	43, 93
1876	Wayne	*Perrien vs. Fetters	35 "	233.	Proof of publication	66
1887	Mecosta	Perry vs. Big Rapids	67 "	146.	Abstract books not taxable—Assessment at cash value	9, 27
1856	Wayne	Perry vs. Hepburne	4 "	165.	Limitations	73
1897	St. Clair	Petit vs. F. & P. M. R. R. Co.	114 "	362.	Void tax deed—Defective description—Estoppel	73
1899	St. Clair	Petit vs. F. & P. M. R. R. Co.	5 D.L.N.	889.	Recovery for improvements	104
1887	Muskegon	Petrie Lumber Co. vs. Collins	66 Mich.	64.	Assessment to firm—Collection from successor	47
1852	St. Clair	Phenix vs. Clark, Supervisor	2 "	327.	Right of supervisor to roll	34
1865	Wayne	*Phenix Ins. Co. vs. Gray	13 "	191.	Collection of draft or check	44
1887	Berrien	Phillips vs. New Buffalo	64 "	683.	Action of board of review—Excess of jurisdiction	30
1888	Berrien	Phillips vs. New Buffalo	68 "	217.	Payment under protest—Recovery	47
1898	Shiawassee	Pierpont vs. Osmun	118 "	472.	Act 229 of 1897	140
1872	Mecosta	Pillsbury vs. Auditor General	26 "	245.	State and county taxes	37
1898	Marquette	Pioneer Iron Co. vs. Negaunee	116 "	430.	Setting aside assessment—Fraud—Municipal taxation	76, 107
1895	Bay	Plainfield Twp. vs. Sage	107 "	19.	Assessment of forest products	15
1890	Wayne	Plank Road Co. vs. Detroit	81 "	562.	Toll house exempt	7
1883	Shiawassee	Pond vs. Drake	80 "	302.	Payment by one having lien	52

1882	Oakland	Pontiac vs Axford	49	"	69.	Charter requirements—Record of tax voted	107
1885	St. Clair	Pt. Huron Board of Education vs. Treasurer	57	"	47.	School taxes	36
1889	St. Clair	Pt. Huron Township vs. Potts	78	"	435.	Suit for taxes—County treasurer's warrant	47, 56
1893	Ingham	Post vs. Harris	95	"	321.	Drain taxes	37
1874	Kent	Powers' Appeal	29	"	504.	Local improvements	36
1894	Kent	Powers vs. Grand Rapids	98	"	393.	Local improvements	36
1881	Washtenaw	*Preston vs. Ryan	45	"	174.	Unsevered crops—Levy	2, 47
1865	Wayne	*Price vs. Hopkins	13	"	318.	Limitation laws	143
1896	Mecosta	Pringle vs. Wagnoer	110	"	612.	Duty of vendee of land contract	72
1881	Kent	Putnam vs. Fife Lake Township	45	"	125.	Treasurer's authority to sue.—Suit for taxes	47
1875	Bay	*Ramsdall vs. Maxwell	32	"	285.	Writ of assistance	72
1879	Kent	*Rawdon vs. Dodge	40	"	637.	Redemption	74
1859	Branch	Rawson vs. Parsons	6	"	401.	Recovery for improvements	104
1870	Livingston	Rayner vs. Lee	20	"	384.	Sale after payment	98
1880	Kent	Raynsford vs. Phelps	43	"	342.	Liability of public officers—Liability for taxes—Levy—Payment by mortgagee—Erroneous return—Right of action against collector	24,47,53,55
1882	Kent	Raynsford vs. Phelps	49	"	315.	Action against collector	55
1886	Kalamazoo	Rea vs. Rea	63	"	257.	Duty to pay taxes	44
1890	Berrien	Redding vs. Lamb	81	"	318.	Tax roll	42
1886	Wayne	Reilly vs. Blaser	61	"	399.	Tax deed—Limitations	72, 73, 86
1882	Wayne	Rentz vs. Detroit	48	"	544	Local improvements	36
1874	Monroe	Rice vs. Auditor General	30	"	12.	Responsibility of State for tax titles—Refundings—Decree in ejectment	72, 73, 86
1880	Wexford	Rice vs. Shay	43	"	380.	County treasurer's office	67
1880	Montcalm	Rice vs. Sidney Township	44	"	37.	Liability of sureties	43
1889	Kent	Richards vs. Richards	75	"	408.	Purchase by widow in possession or by heir	72
1891	Chippewa	Ripley vs. Seligman	88	"	177.	Resulting trust	72
1876	Van Buren	*Ritson vs. Dodge	33	"	463.	Purchase under decree	70
1875	St. Clair	Robbins vs. Barron	32	"	36.	Effect of tax title—Finding in ejectment	72, 86
1876	St. Clair	Robbins vs. Barron	33	"	124.	Township and school taxes	37, 99
1886	Charlevoix	Roberts vs. Charlevoix	60	"	107.	Vessels, what exempt	8
1898	Sanilac	Roberts vs. Denio	118	"	544.	Replevin—Validity of tax	47
1899	Bay	Roberts vs. Loxley	6	D.L.N.	286.	Hearing at special term—Writ of assistance—Action to set aside decree—Practice	62, 72
1897	Livingston	Roberts vs. Smith	115	Mich.	5.	Drain taxes	37
1880	Lenawee	Robertson vs. Land Commissioner	44	"	274.	Property subject to taxation—Assessment o'part paid lands	1, 4
1896	Newaygo	Roedel vs. White Cloud Village	108	"	506.	Payment under protest	53
1888	Allegan	Rogers vs. White	68	"	10.	Excessive levy	30
1882	Midland	Roscommon vs. Midland Super's	49	"	454.	Payment of county money to county treasurer payment to county	87
1892	Ontonagon	Rossman vs. Adams	91	"	69.	Injunction to restrain waste	44
1895	Wayne	Rothschild vs. Begole	105	"	388.	Lien for taxes	40
	Wayne	Rowland v. Doty		Har'n.	3.	Void tax deed	76
1879	Manistee	Ruggles vs. Sands	40	Mich.	559.	Possession of land	3
1872	Bay	Russell vs. Miller	26	"	1.	Resulting trust	72
1875	Lenawee	*Russell vs Myers	32	"	522.	Redemption	74
1869	Chippewa	*Ryan vs. Brown	18	"	196.	Riparian rights	2
1869	Muskegon	*Ryerson vs. Eldred	18	"	12.	Writ of assistance—Tenant cannot buy adverse title	72
1884	Muskegon	Ryerson vs. Laketon	52	"	509.	Highway tax	39
1885	Muskegon	Ryerson vs. Muskegon	57	"	383.	Assessment of forest products—Locus	14
1857	St. Clair	Safford vs. Basto	4	"	406.	Trespass—Possession of lands	81, 127
1888	Ogemaw	Sage vs. Auditor General	72	"	638.	What supervisor may assess—County tax for highways	36, 37, 38
1889	Ogemaw	Sage vs. Burlingame	74	"	120.	Assessment to copartnership by direction of its agent	12
1899	Antrim	St. John vs. Antrim Iron Co.	6	D.L.N.	658.	Action for trespass	118

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1897	Clinton	St. Johns National Bank vs. Bingham Twp.	113 Mich.	203.	Tax lien on bank stock—Collection of tax on stock from bank.	40, 46
1879	Manistee	Sands vs. Davis	40 "	14.	Purchase by co-tenant—Who estopped from purchasing	72, 104
1885	Marquette	Sawyer-Goodman Co. vs. Crystal Falls	56 "	597.	Assessment of non-resident and remote wild lands—Cash value—Highway tax	24, 39
1888	Wayne	Schalle vs. Wasey	70 "	414.	Publication in English language	66
1887	Ingham	*Schlee vs. Darrow Estate	65 "	362.	Proof of publication	66
1891	Berrien	Schneewind vs. Niles	103 "	301.	Limit of municipal tax	107
1885	Iosco	Schneider vs. McIvor	58 "	511.	Supervisor's right to books and papers of office	18
1899	Gratiot	Scholtz vs. Smith	6 D.L.N.	7.	Drain taxes—Supervisor's duty	39
1892	Kent	School Furniture Co. vs. Grand Rapids	92 Mich.	564.	Local improvement—Apportionment	36, 37
1868	Ingham	Scofield vs. Lansing	17 "	437.	Local improvements	36
1893	Eaton	Scott vs. Whelan	96 "	624.	Replevin	47
1895	Wayne	Scotten vs. Detroit	106 "	564.	Local improvements	36
1899	Kent	Scribner vs. Grand Rapids	5 D.L.N.	759.	Local improvements	36
1858	Saginaw	Sears vs. Cottrell	5 Mich.	251.	Payment of tax on forest products in transit	14
1887	Manistee	Seymour vs. Peters	67 "	415.	Assessment roll—Extending taxes—Excessive levy—Unverified return	39, 55
1899	Macomb	Shefferly vs. Auditor General	6 D.L.N.	240.	Demand for taxes—Premature return—Non-enrollment of decree	67, 85, 46
1894	Osceola	Sheldon vs. Marion	101 Mich.	256.	School taxes—Right of recovery of taxes paid under protest—Record of equalization—Signature of clerk—Time—Township and school taxes	36, 53, 99
1881	Wayne	Sheley vs. Detroit	45 "	431.	Local improvements	36
1894	Wayne	Sherer vs. Judson	100 "	539.	Mortage under tax deed	72
1887	Manistee	*Sheridan vs. Cameron	65 "	680.	Statutory lien—Foreclosure	66
1893	Kent	Sherlock vs. Stuart	96 "	103.	Nature of liquor tax	8, 9
1895	Saginaw	Shimmons vs. Saginaw	104 "	511.	Local improvements	36
1892	Iosco	Shippy vs. Mason	90 "	45.	Assessment to pay judgment	37, 107
1853	Calhoun	Sibley vs. Smith	2 "	486.	Description—Abbreviations—Authority of Auditor General to convey lands—Recitals in deed—Absence of records	25, 72, 99
1880	Huron	Silsbee vs. Stockle	44 "	561.	Disregard of limitations—Title of act—Equalization—Township taxes—Highway tax—Assessment for agricultural societies—Excessive levy—Highway tax	M, 34, 36, 37, 39
1883	Huron	Sinclair vs. Learned	51 "	335.	Equalization—Proceedings to vacate sale—Bill in equity—Effect of tax sale—Statutory certificates	39, 70, 86, 99
1899	Chippewa	Sirr, Guardian vs. Miller	6 D.L.N.	585	Incompetents	69
1860	Wayne	Sisters of Charity vs. Detroit	9 Mich.	94.	Exemption	7
1884	Macomb	*Skinner vs. Mt. Clemens	54 "	543.	Non-existent grantee	72
1891	Kent	Sligh vs. Grand Rapids	84 "	497.	Local improvements	36
1891	Saginaw	Smith vs. Abair	87 "	62	Replevin	47
1862	Sanilac	Smith vs. Austin	9 "	465.	Redemption	74
1862	Sanilac	Smith vs. Austin	11 "	34.	Redemption	74
1887	Wayne	Smith vs. Blindbury	66 "	319.	Duty of life tenant	3
1897	Livingston	Smith vs. Board of Supervisors	115 "	202.	Drain taxes	37
1897	Lapeer	Smith vs. Carlow	114 "	67.	Review—Estoppel—Drain taxes—Hearing on petition	30, 66, 37
1867	Washtenaw	Smith vs. Crittenden	16 "	182.	Duty of supervisor—Township clerk's certificate—Time	36, 99
1877	Saginaw	Smith vs. Fitting	37 "	148.	Omission to record deed—Purchase by mortgagor	72
1874	Wayne	*Smith vs. Lloyd	29 "	381	Evident blunder	99
1882	Berrien	*Snyder vs. Hemmingway	47 "	549.	Proof of publication	66
1889	Iosco	Solomon vs. Oscoda Township	77 "	365.	Omission from assessment	24
1881	Bay	*Sovereign vs. Ortman	47 "	181.	Standing timber	2

1883	Menominee	*Spalding vs. Archibald	52	"	365.	Standing timber	2
1897	Bay	Spanish River Lumber Co. vs. Bay City	113	"	181.	Assessment of forest products	14
1880	Shiawassee	Sparrow vs. Hovey	44	"	63.	Claim of title under tax deed	77
1898	Monroe	Spaulding vs. O'Connor	5	D.L.N.	697.	Proof of publication—Questions foreclosed by decree—Filing and entry of decree—Power too pen decree	66, 67, 70
1877	St. Clair	Staley vs. Columbus	36	Mich.	38.	Payment of taxes with worthless highway orders—Tax roll—Execution	46, 47
					481.	Limitation	86
1891	Ingham	*State vs. F. & P. M. R. R. Co.	89	"	320.	Petition—Form—Hearing—Constitutional objections	68
1884	Marquette	State Tax Law Cases	54	"	104.	Local improvements	36
1870	Saginaw	Steckert vs. City of East Saginaw	22	"	432.	Fraudulent admixture of logs	113
1862	Saginaw	*Stephenson vs. Little	10	"	9.	Compensation of county officer	90
1877	Calhoun	Stetson vs. Calhoun County Supervisors	36	"	44.	Liability of sureties—Approval of official bond	43, 98
1872	Bay	*Stevenson vs. Bay City	26	"	59.	Exemption	9
1875	Ionia	*Stewart vs. Welton	32	"	215.	Exemption	9
1881	Kalamazoo	*Stilson vs. Gibbs	46	"	10.	Tax lien	40
1886	Kent	Stockham vs. Cheney	62	"	615.	Irregularities not reviewable unless injurious—School taxes—Defacto collector—Tax deed presumptively valid—Filing bond—Time—Returns	M, T, 36, 46, 72, 99
1879	Huron	Stockle vs. Silsbee	41	"			
1885	Bay	Stoddard vs. Prescott	58	"	542.	Certificate of sale—Assignment	71
1845	Lenawee	Stout vs. Keyes	2	Doug.	184.	Purchaser's title under chancery sale	72
1880	Tuscola	Strohauer vs. Voltz	42	Mich.	444.	Consideration for deed—Proof of	140
1874	Kalamazoo	Stuart vs. School District	30	"	69.	School taxes	36
1893	St. Joseph	Sturgis Village vs. Flanders	97	"	546.	Suit for taxes	47
1893	Dickinson	Supervisors vs. Warren	98	"	744.	Current expenses, etc., of county to be raised by taxation	37
1895	Ionia	Tanner vs. Page	106	"	155.	Payment of taxes by trustee	44
1889	Oakland	Taylor vs. Avon Township	73	"	604.	Drain taxes—Action to recover drain taxes paid under protest	37, 53
1894	Saginaw	Taylor vs. Deveaux	100	"	581.	Jurisdiction—Right to defend against tax deed—Legislative intent	66, 72, 79
1844	Calhoun	Taylor vs Snyder	Walker		490.	Fraudulent purchase at tax sale	8
1882	Cheboygan	Taylor vs. Youngs	48	Mich.	268.	Assessment of land—Locus	36
1890	Kent	Thayer vs. Grand Rapids	82	"	298.	Local improvements	47
1889	Newaygo	Thayer Lumber Co. vs. Dean	73	"	463.	Replevin	30, 36
1876	St. Clair	Thomas vs. Gain	35	"	156.	Unequal valuation—Review—Local improvements	37
1896	Kent	Thomas vs. Judge Kent Circuit	116	"	106.	Manner of submitting vote for taxes	66
1899	Gogebic	Thomas vs. Moon	6	D L.N.	265.	Taxes set aside	37
1898	Kent	Thomas vs. Walker Twp. Board	116	Mich.	597.	Drain taxes	36, 53
1897	Wayne	Thompson vs. Detroit	114	"	502.	Local improvements—Taxes paid under protest	6
1895	Huron	Thompson vs. Noble	108	"	26.	Liability for taxes	82
1899	Muskegon	Thorkildsen vs. Carpenter	6	D.L.N.	196.	Responsibility of vendor	37, 139
1892	Ionia	Tile Co. vs. Snyder	93	Mich.	225.	Drain taxes—Interest on under 1885 drain law	104
1893	Saginaw	Tillotson vs. Circuit Judge	97	"	585.	Recovery for improvements—Statutes of limitation	
1893	Saginaw	Tillotson vs. Webber	96	"	144.	Assessment must be legal in all things—Voting taxes—Authority of township board—Designationof tax—Excessive levy—Action of ejectment	M.36,39,86
1892	Mand.Monroe	Tinsman vs. Monroe Supervisors	90	"	382.	Drain taxes	37
1889	Kent	Tompkins vs. Johnson	75	"	181.	Statutory certificates—Collateral attack—Showing in returns	30, 55
1876	Van Buren	Tolles vs. Duncombe	34	"	101.	Tax title prima facie paramount	72
1892	Alpena	Tousey vs. Post	91	"	631.	Replevin	47
1877	Monroe	*Towle vs. Wright	37	"	93.	Statutes of limitation—Construction	73
1891	Manistee	Townsend vs. Manistee	88	"	408.	Local improvements	36
1869	St. Clair	Travers vs. Inslee	19	"	98.	Replevin	47

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1869	Bay	Tremble vs. Crowell	17 Mich.	493.	State alone can authorize taxes—Local customs	M
1875	Saginaw	Trevidick vs. Mumford	31 "	466.	Proof of consideration for deed	140
1894	Wayne	Trowbridge vs. Detroit	99 "	443.	Local improvements	36
1889	Alpena	Turnbull vs. Alpena Twp	74 "	621.	Highway tax—What receivable for taxes	35, 44
1895	Wayne	Turner vs. Detroit	104 "	326.	Local improvements	36
1893	Muskegon	Turner vs. Circuit Judge	96 "	1.	Requirement of sworn statement of taxable property	18
1857	St. Joseph	Tweed vs. Metcalf	4 "	579.	Occupancy—Assessment roll—Certificate of equalization—Equalization—Authority of the Board of Supervisors to raise money—Supervisor's warrant—No levy for non-resident taxes—Statement of moneys received by collector—Right to acquire title under tax sale—Reassessment—Verification of statement of moneys collected	3, 31, 34 37, 42 47, 55, 77 96, 99
1893	Presque Isle	Union School District vs. Parris	97 "	593.	Duty of supervisor as to school tax	36
1877	Osceola	Upton vs. Kennedy	36 "	215.	Township taxes—Unverified return—Failure to direct levy—Absence of files or record	35, 39, 55 99
1878	Van Buren	Van Auken vs. Monroe	38 "	725.	Ejectment	86
1882	Bay	Van Den Brooks vs. Correon	48 "	283.	Recovery for improvements	104
1881	Ingham	*Vandoozer vs. Dayton	45 "	247.	Tenancy	3
1893	Wayne	Van Husen vs. Heames	96 "	504.	Constitutionality of act—Certificate for recording deed—Sale to individual is payment of taxes	135
1877	Kent	Vaughn vs. Nims	36 "	297.	Payment by mortgagee	53
1883	St. Clair	Vincent vs. Moore	51 "	618.	Redemption by mortgagee	74
1898	Ottawa	Visscher vs. Ottawa C. J.	116 "	666.	Publication in the English language	66
1898	Bay	Vliet vs. Hoffman	117 "	255	Proof of publication—County clerk's files	66
1900	Wayne	Volght vs. Detroit	7 D.L.N.	21.	Local improvements	36
1877	Kalamazoo	*Wagar vs. Stone	36 Mich.	364.	Mortgage no title	3
1895	Osceola	Wagar vs. Bowley	104 "	38.	Bill to quiet title	72
1886	Tuscola	*Wait vs. Baldwin	60 "	622.	Redemption	74
1900	Clare	Wait vs. Gardiner	6 D.L.N.	1001.	Annual tax sale—County treasurer and deputy cannot purchase	72
1899	Osceola	Wait vs. McMillan	6 D.L.N	296.	Premature decree	139
1868	Wayne	Walcott vs. People	17 Mich.	68.	Tax on business or occupation	24
1896	Muskegon	Waldron vs. Auditor General	109 "	231.	Form of order of hearing—Designation of paper—Hearing on petition—Action to set aside decree	62,63,66,70
1879	Hillsdale	*Waldron vs. Murphy	40 "	668.	Equity	98
1898	Washtenaw	Walker vs. Ann Arbor	118 "	251.	Local improvements	36
1900	Kent	Walker vs. Thomas	6 D.L.N.	1041.	Estoppel	66
1867	Jackson	Wall vs. Trumbull	16 Mich.	228.	Tax roll—Warrant—Supervisor's liability	42, 99
1883	Monroe	Wallace vs. Sorter	52 "	159.	Drain taxes	37, 39
1889	St. Clair	Walsh vs King	74 "	350.	Unlawful exemption	24
1895	St. Clair	Walsh vs. St. Clair C. J.	107 "	26.	Hearing on petition—Practice	66
1878	St. Clair	*Walsh vs. Varney	38 "	73.	Purchaser at judicial sale—Ejectment	72, 86
1882	Genesee	Walton vs. Bagley	47 "	385.	Payment by mortgagee	53
	Wayne	*Walton vs. Torrey	Harrington	259.	Agency—Estoppel	72
1881	Marquette	*Ward vs. Carp River Iron Co	47 Mich.	65.	Waste	70, 115
1897	Clinton	Ward vs. Nestell	113 "	185.	Purchase by joint tenant	72
1874	Ottawa	Warren vs. Grand Haven	30 "	24.	Local improvements	36
1898	Wayne	Water Commissioners vs. Auditor General	115 "	546.	Exemption of lands of board	7
1876	Saginaw	Water Com'rs vs. E. Saginaw Common Council	33 "	164.	Municipal taxes	107
1894	Monroe	Water Company vs. Frenchtown	98 "	431.	Taxation of pipes of water company	8
1894	Wayne	Watkins vs. Green	101 "	403.	Life tenant	2

1879	Lapeer	Wattles vs. Lapeer	40	"	624.	Assessment at cash value—Voluntary payment—Estoppel—Limit of municipal tax	27, 46, 107
1894	Bay	Watts vs. Bublitz	99	"	586.	Designation of paper—Notice of hearing—Affidavit of publication—Jurisdiction—Void tax deeds—Attack	63, 72
							39
1893	Roscommon	Wayne County Savings Bank vs. Supervisors	97	"	630.	Assessment to pay bonds	46
1899	Wayne	Weadock vs. Gill	6	D.L.N.	6.	Payment by mortgagee	46
1899	Wayne	Weadock vs. Noeker	6	"	5.	Payment by mortgagee	2
1896	Mason	*Webber vs. F. & P. M. Boom Co.	62	Mich.	626.	Reparian rights	47
1868	Wayne	*Weber vs. Henry	16	"	399.	Release of levy	89
1899	Man. Mecosta	Webster vs. Auditor General	6	D.L.N.	604.	Interest and expenses	44,70
1893	Gratiot	*Webster vs. Peet	97	Mich.	226.	What constitutes waste	
1899	Wexford	Webster vs. Wheeler	5	D.L.N.	987.	Recovery of taxes wrongfully paid county treasurer by city treasurer	104
1874	Berrien	Weimer vs. Bunbury	30	Mich.	201.	Supervisor's warrant—Collector's liability	54
1880	Clinton	Weimer vs. Porter	42	"	569.	Recovery for improvements	43
1885	Bay	Westbrook vs. Miller	56	"	148.	Supervisor's warrant.—Deputy Auditor General's deed	72
1887	Bay	Westbrook vs. Miller	64	"	129.	Record of equalization.—Effect of tax sale	34, 43, 86
1894	Luce	Weston vs. Luce County	102	"	528.	Voluntary payment	58
1890	Kent	Weston vs. Monroe	84	"	341.	Record of equalization—Assessment and tax roll	34, 43
1889	Newaygo	West Michigan Lumber Co. vs. Dean	73	"	459.	Replevin—Supervisor's warrant	47, 99
1880	Marquette	*Wetmore vs. Newberger	44	"	362.	Redemption	74
1885	Macomb	Wheeler vs. Hatheway	58	"	77.	Voluntary payment—Estoppel	46
1873	Saginaw	*Whipple vs. Judge of Saginaw Circuit	26	"	342.	Interpretation of statutes	M
1883	Lenawee	Whitbeck vs. Hudson	50	"	86.	Tax proceedings not reviewable on certiorari	31
1884	Kalamazoo	Whitford vs. Crooks	54	"	261.	Limitations	73
1880	Saginaw	White vs. East Saginaw	43	"	567.	Collection by sheriff	51
1886	Mecosta	White vs. Millbrook	60	"	532.	Voluntary payment—Protest—Recovery—Non-prejudicial irregularities	53, 99
1887	Saginaw	White vs. Saginaw	67	"	33.	Special assessment—Discrimination between property	36
1884	Monroe	Whiteford Township vs. Judge of Probate	53	"	130.	Drain taxes	37
1888	Lenawee	Whitney vs. Hudson, Village of	69	"	189.	Local improvements—Charter authority	36, 107
1891	St. Clair	Whitney vs. Port Huron	88	"	268.	Local improvements—Payment under protest	36, 53
1893	St. Clair	Whittaker vs. Fuller	96	"	141.	Replevin—Levy on leased personalty	47
1894	Monroe	Whitaker vs. Shooting Club	102	"	454.	Limitations—Adverse possession—Payment of taxes	73
1890	Clinton	Wilcox vs. Eagle Township	81	"	271.	Deferred assessment—School taxes	36
1899	Saginaw	Wilkin vs. Keith	6	D.L.N.	305.	Description of platted land—Designation of paper—Publication in supplement—Questions foreclosed by decree—Proceedings under void decree—Proceeding to set aside decree—Time of payment to purchase—Incomplete application—Priority—Validity of Tax Record—Collateral attack	25, 63, 66, 70 84, 86
1887	Washtenaw	*Wilkinson vs. Conaty	65	Mich.	614.	Proof of publication	66
1876	Ionia	*Willey vs. Snyder	34	"	60.	Description	25
1886	Berrien	*Williams vs. Flood	63	"	487.	Standing timber	2
1893	Mecosta	*Williams vs. Hyde	96	"	152.	Standing timber—Redemption	2, 74
1886	Monroe	Williams vs. Mears	61	"	86.	Equalization—Township taxes	34, 36
1883	Saginaw	Williams vs. Saginaw	51	"	120.	Assessment of partnership property—Locus—Assessment—Jurisdiction—Appeal—Charter provision—Board of review	14, 29, 107
1887	Muskegon	Williams vs. Towl	65	"	204.	Payment of tax by tenant.—Tenant cannot buy tax title	44, 72
1878	Lenawee	*Wilt vs. Cutler	38	"	189.	Description	99
1876	Wayne	Winchester vs. Craig	33	"	305.	Good faith acts under tax deeds	77
1898	Wayne	*Wineman vs. Electrical Mfg. Co.	118	"	636.	Chattel mortgage	40
1858	Genesee	Wisner vs. Davenport	5	"	501.	Supervisor's warrant—Notice of place of sale	42, 62

Year.	County.	Title.	Volume.	Page.	Subjects.	Sec.
1892	Gratiot	Wolf vs. Holton	92 Mich.	136.	Recovery for improvements	104
1897	Wayne	Wood vs. Bigelow	115 "	123.	Action to set aside sale—Authority of chancery court—Sale after payment—Certificate of error	
1860	Wayne	Woodbridge vs. Detroit, City of	8 "	274.	Assessment for local improvement	70, 98
1883	Mackinac	Woodman vs. Auditor General	52 "	28.	Assessment roll—board of review	24, 36
1868	Sanilac	*Woods vs. Monroe	17 "	238.	Proof of publication	24, 30
1898	Ogemaw	Wright vs. Auditor General	118 "	556.	Board of review—Estoppel	66
1865	Ionia	Wright vs. Dunham	13 "	414.	Tax deed—Action to set aside—Presumption of regularity—Description	30
1881	St. Clair	Wyman vs. Baer	46 "	418.	Proof of publication	72,73,99
1897	Gd. Traverse	Wynkoop vs. Grand Traverse C. J.	113 "	381.	Proof of publication	66
1878	Ingham	Yelverton vs. Hillyard	38 "	355.	Limitations—Adverse possession	66
1877	Ingham	Yelverton vs. Steele	36 "	62.	Certificate of board of review—Equalization	73
1879	Ingham	*Yelverton vs. Steele	40 "	538.	Adverse possession	30, 34
1898	Montcalm	Youngs vs. Auditor General	118 "	550	Certificate of error	73
1899	Marquette	Youngs vs. Clark	6 D.L.N.	265.	Hearing on petition—Time for objections—Premature decree	98
1898	Marquette	Youngs vs. Peters	118 Mich.	45.	Personal service—Non-enrollment of decree—County Treasurer's report of sale, to Auditor General—Time—Writ of assistance	139
1894	Newaygo	Attorney General vs. Finney	McGrath's Mich. Mand. Cases.	1318.	Supervisor's duty	66,67,70,72
1892	Roscommon	Auditor General vs. Circuit Judge	" "	634.	Designation of paper	39
1895	Iron	Auditor General vs. Circuit Judge	" "	718.	Record of equalization	66
1891		Browne vs. Auditor General	" "	1028.	Revocation of designation of paper	66
1896	Lapeer	Brownell vs. Board of Supervisors	" "	1340.	Drain taxes	63
1892	Wayne	Dodsley vs. Probate Judge	" "	664.	Proof of publication	37
1892		Dryer vs. Board of Review	" "	1283.	Assessment of rented realty of exempt corporation	66
1891	Iosco	Featherly vs. Auditor General	" "	1027.	Revocation of designation of paper	29
1893		First National Bank vs. Supervisor	" "	1346.	Assessment to pay interest on bonds	63
1892		Fitzgerald vs. Auditor General	" "	1034.	Redemption	105
1895	Presque Isle	Johnson vs. Circuit Judge	" "	702.	Hearing on petition	74
1896	Muskegon	Lange vs. Circuit Judge	" "	922.	Rehearing—Time for appeal	66
1896	Muskegon	Latimer vs. Circuit Judge	" "	555.	Prosecution of petition	67
1897	Monroe	O'Connor vs. Circuit Judge	" "	423.	Bill of review	66
1897	Monroe	Osgood vs. Circuit Judge	" "	370.	Laches	72
1895	Montmorency	Richmond vs. Circuit Judge	" "	557.	Notice of objections to decree	84
1892		Rossman vs. Adams	" "	807.	Injunction to restrain waste	66
1897		Smith vs. Auditor General	" "	1080.	Insufficient remittance	44
1892		Snyder vs. Supervisors	" "	1339.	Drain taxes	84
1895	Ingham	Sparrow vs. Circuit Judge	" "	135.	Taxes charged back	37
1895	St. Clair	Walsh vs. Circuit Judge	" "	554.	Hearing on petition—Appeal—Practice	96
1892	Roscommon	Wayne Co. Savings Bank vs. Supervisor	" "	1349.	Assessment to pay township bonds	66
1893	Alpena	Widner vs. Rayburn	" "	1625.	Insufficient application	39
1891	Tuscola	Wiley vs. Circuit Judge	" "	710.	Petition to reopen decree	84
1888	Monroe	Zink vs. Board of Supervisors	" "	1337.	Drain taxes	70
1897	Allegan	Ball vs. Auditor General	unreported.	.....	Purchase money returned and retendered	39
1900	Alger	Chicago Lumber Co. vs. Twp. of Munising	7 D.L.N.	1.	Voting taxes—School tax—Tax to pay township bonds—Poor tax—County tax	84
1900	Van Buren	Curran vs. Banks	7 D.L.N.	50.	Tax title—Estoppel	.....
1900	Wayne	Graff vs. Graff	7 D.L.N.	3.	Tenant in common—Duty to pay taxes	.....
1900	Gratiot	Russell vs. Chittenden	7 D.L.N.	8.	Decree—Dollar mark	.....
1900	Gratiot	Scholtz vs. Ely	7 D.L.N.	27.	Drain taxes	.....
1900	Alger	Weston Lumber Co. vs. Twp. of Munising	7 D.L.N.	1.	Voting taxes—School tax—Tax to pay township bonds—Poor tax—County tax	.....

MISCELLANEOUS.

Case.	Subjects.	Sec.
Hayden vs. Foster, 13 Pick. 192	Assessment of separate parcels	25
Johnston vs. City of Oshkosh, 27 N. W. R. 320	Omission to assess	7
Latrobe vs. Baltimore, 19 Md. 13	Taxation of mortgage—Locus	13
Philadelphia vs Ridge Ave. R. R. Co., Pa., St., 190	Exemption	7
Attorney General's Opinion	Taxation of corporations	8, 19
Attorney General's Opinion, 5 Det. Leg. News, 416	Tax homestead land	127, 140

COOLEY ON TAXATION.

Page.	Subjects.	Sec.
90	Imports, when taxable	9
206	Exemption	7
212	Exemption of shares	8
257	Board, action of joint	29
311-12	Change of title no bar to reassessment	96
367	Buildings on leased lands	2
428	Assessment roll—Supervisor's warrant	39
538-9	Redemption	74
542	Certificate of sale	71
543	Redemption	74

BLACK ON TAX TITLES.

Section of B. on T. T.	Subjects.	Sec.
3	Taxes, citizens' share of expenses of government	M
8	Taxation of bank shares	14
9	U. S. lands	7
28	Uniform rate of taxation	39
30	Exemption—Inferior municipalities	7
37	Equity of purchaser of government lands	7
40	U. S. lands	7
42	Indian lands	7
49	Municipal buildings, when not exempt	7
60	Exemption	7
64	Exemption—Local taxation	7
65	Leased railroad lands	7
67	Railroad hotels, when not exempt	7
73	Exemption—Exceptions	7
75	Exemption—Cemeteries	7
81	Exemption—Local taxation	M
89	Assessment must be valid	24
95	Valuation	3
100	Occupancy—Husband and wife	3
106	Assessment to trustee, etc	3
107	Assessment, who to	25
112	Description	24
117	Assessment roll	39
120	Assessment roll—Duty of assessor	24
122	Assessor's duty	

23846
169

WRIGHT'S ASSESSOR'S MANUAL.

Page.	Subjects.	Sec.
10	Assessment of non-resident lands	24
18	Saving clauses and curative provisions	M
19	Machinery in building	3
20	Exemption	3
22	Assessment to trustee, etc.—Heirs—Devisees—Legatees	3
25	Lands purchased from State	7
26	Exemption of unincorporated institutions, etc.	7
27	Exemption of church property—Exceptions—Unused cemetery	7
28	Fair grounds—Armories—When not exempt	7
31	Taxation of mortgages	8
32	Exemption—Pensions	9
33	Exemption	9
50	Assessment roll	32
55	Description	32
56	Interest in standing timber, etc.	37
58	Authority of board of review—Right to abatement of assessment	39
71	Assessment roll	39

STATUTES, ETC.

Section in C. L. '97.	Subjects.	Sec.
Ord. of 1836	Taxation of non-resident lands—Exemption of U. S. lands—Military bounty land	1, 24
Sec. 20, Art. IV. Const.	Title and object of acts	T-135
" 4, " X, Const.	County treasurer's office	67
" 8, " X, Const.	Board of supervisors	37
" 9, " X, Const.	Limit of tax for constructing, repair and building highways and bridges	36, 37
Sec. 10, Art. X. Const.	Claims against county	37
" 11, " X, Const.	Highways and bridges	37
" 11, " XIV, Const.	Uniform rule of taxation	1
" 12, " XIV, Const.	Assessments at cash value	24
" 13, " XV, Const.	Restriction of municipal taxation	46
" 6, " XVIII, Const.	Proceedings, etc., in English language	66

Sec. in C. L. '97.	Subjects.	Sec.
50	"Lands," "real estate" defined	2
95	Instruction of certain officers by Auditor General	121
98	Deputy Auditor General	72, 109
129	State Board of Equalization	35
134	Equalization	34
159-61	Sureties to justify	43, 93
166	Auditor General may require searches, copies, etc., from certain officers	135
374 e s	Compensation of stenographers	37
445	Quieting title	72, 86
463 4	Enrollment of decrees	67
663	Books, etc., for judge of probate	37
687	Seal for probate court	37
748	Replevin	47
1115	Proceedings, etc., in English language	66
1150-1152	Exemption of U. S. lands	7
1179	Moneys receivable for taxes	44
1180	Duty of collecting officers	44
1321-2	Certain persons prohibited from purchasing State tax land	84
1323	Adjustment of trespass on State lands	113
1326	Notice to supervisor of purchase of State lands	92
1369	Adjustment of trespass on State lands	113
1394-8	Trespass on State lands	113

1461	Taxation of part paid swamp land	4
1513	Notice of State lands patented	92
1529-30	Specific tax on ore (Repealed)	11
1576	Compensation for militia enrollment	37
1623	Troops in aid of civil authority	35, 87
1667	Burial lots for soldiers	37
1700-2	Soldiers' monuments—Memorial buildings	37
1704	Record book of soldiers' discharges	37
2269	Voting township taxes	36
2270	Voting tax for town buildings	36
2309	Time of voting appropriations at town meetings	36
2329	Appointment of township treasurer to fill vacancy	43
2331	Supervisors to prosecute for penalties	40
2332	Supervisor, ex officio assessor	10
2333	Supervisor shall preserve assess. roll—Where not kept	10, 23
2335 e. s	Supervisors to lay before board of super's entries as to moneys to be raised	36
2337	Supervisor authorized to administer oaths	18
2338	Township clerk to keep records, etc.—Where not kept	23, 52
2342	Bond of township clerk	109
2349	When township board to raise money for twp. purposes	36
2353-4	Duties of township treasurer—Bond	43
2356	Township treasurer's account of receipts, etc	43
2357-63	Township treasurer—Additional sureties	43
2374-5	Compensation of township officers	36
2405	Tax to pay township bonds	36
2418 e. s	Assessment of fence viewers expenses	36, 39
2440-1	Rights and powers of counties	37
2454	County buildings	37
2471	Assessment to pay judgment against county	37
2475-6	Meeting of board of supervisors	37
2477	Duties of clerk of board of supervisors	37
2480-1	Repair, etc., of public buildings	37
2482	Publication of proceedings of board of supervisors	37
2484	Powers of board of supervisors	37
2485	When two-thirds vote of supervisors is required	37
2487	County indebtedness to State	35, 37
2493	Submitting county tax to vote of people	37
2498	Power of board of supervisors with respect to roads	37
2501	Damages for roads	37
2502	Record of board of supervisors	37
2503	Compensation of supervisors	37
2504	Neglect of duty by supervisor	37
2508-10	Copying and binding mutilated assessment rolls, etc	99
2511	Section corners and quarter posts	36
2516	Damages, etc., in condemnation of toll and plank roads	37
2529	Salary of Wayne Co. auditors	37
2529	Adjustment of claims by Wayne Co. auditors	37
2532	Powers of Wayne Co. auditors	37
2536	Deputy Co. treasurer	109
2542	Compensation of county treasurer	37, 90
2543	Insurance of county buildings	37
2547	County treasurer's office	67
2548	Fees of county treasurer for certificate, etc	135
2551-2	Salary of judge of probate	37
2554	Probate register	37
2556	Duties of prosecuting attorney	68
2562	Compensation of prosecuting attorney	37, 90
2564-6	Duties and compensation of prosecuting attorney	37
2569	Powers and duties of prosecuting attorney	37
2571	Bond of county clerk	62
2572	Deputy county clerk	109
2574	County clerk's books and calendar	37
2576	County clerk's office	37, 90
2598-9	Sheriff's salary, U. P.	37
2615	Books for register of deeds	37
2616	Register of deeds' seal	37
2622	Recording surveys	37
2624	Copies of U. S. surveys for counties	37
2627	Section corners and lines	36, 37
2640	Attorneys not to administer oath in certain cases	66
2649	Salaries of county officers	37, 90
2653	Keeping and maintenance of convicts	37
2684-2956	Villages—General incorporation act	107
2684	" Incorporation of	37, 107
2699	" Officers	107
2732	" Clerk to be general accountant	107
2735 e. s	" Treasurer—Duties, etc	107
2746	" Assessor—Duties of	107
2752	" Powers of council	107
2778	" Sidewalks	107
2780	" Public improvement	107
2784	" Grading	107
2786-7	" Expense of bridges, paving, etc	107
2793 2801	" Sewers and water courses	107
2818	" Removal of nuisances	107
2824	" Cemeteries	107
2831-51	" Improvements and assessments	107
2829	" Cemetery fund	107
2852-8	" Authority of council to levy taxes	107
2859	" Assessor to make assessment	107
2860-3	" Review of assessment	107
2864	" Council to certify roll to assessor	107
2865-9	" Apportionment and collection of taxes	107
2869	" Return of delinquent taxes on realty	40, 107
2870	" Sale for taxes and redemption of lands	107
2871	" Suit for personal tax	107
2874	" Voting additional tax	107
2929	" Assessment for benefits	107
2941	" Reincorporation	107
2945	" Enforcing special assessments	107
2953	" Vacation of incorporation	39
2954	" Apportionment of indebtedness of vacated village	37
2956-3371	Incorporation of Cities of the Fourth Class	10
2956	Cities—Fourth class—What included	10
2974	" " " Boundaries	10
2988	" " " Officers	10

Sec. in C. L. '97.	Subjects.	Sec.
2289	Cities—Fourth Class—Supervisors	10
2990	" " " Appointive Officers	10
3029	" " " City clerk—Duties	10
3033	" " " City treasurer—Duties, etc	10
3048	" " " Duty of supervisors	10
3060	" " " Compensation of officers	10
3068	" " " Two-thirds vote of council to levy tax, etc	10
3107	" " " General powers of city	10
3127	" " " Abating nuisances	10
3161-6	" " " Sewers, etc	10
3169	" " " Ditches and water courses	10
3174	" " " Streets	10
3178-9	" " " Grading and paving, etc	10
3180-2	" " " Paving improvements	10
3190	" " " Sidewalks	10
3192-3	" " " Public improvements	10
3194	" " " Council to determine pub. imp's etc.	10
3195-3221	" " " Special assessments	10
3289-3317	" " " Finance and taxation	10
3318-20	" " " Assessment and collection of taxes.	10
3321-3	" " " Equalization—Review	10
3324	" " " Delivery of rolls of city clerk	10
3325	" " " City clerk shall certify to county clerk amount to be raised	10
3326	" " " Apportionment	10
3327	" " " City clerk to certify to supervisors amount to be assessed	10
3328	" " " Tax roll	10
3329	" " " Certification to city clerk of taxes levied—Bond of city treasurer	10
3330	" " " Warrant	10
3331	" " " Lien upon lands	10
3332	" " " Notice to taxpa'rs—Collection fee.	10
3333-7	" " " Collection—Return of del'ent taxes	10
3352-3	" " " School taxes	10
3356	" " " Collection of former district tax	10
3372-89	Plats	25
3389	Compensation for restoring mutilated plats	37
3406	Assessment for public improvements in cities and villages	39
3449	Tax for library fund	36
3458	Village and township libraries	36
3460	Limitation of act relating to village and township libraries	36
3462	Division of territory of cities and townships	105
3477	Taxation for fire protection	107
3499	Destruction of noxious weeds	36
3505	Assessment for destruction of noxious weeds	36
3964-7	Taxation of certain railroad lands	2
3969-78	Taxation of copper	8, 13

Sec. in C. L. '97.	Subjects.	Sec.
3974-6	Taxes on part paid lands	4
3975	Reassessment of taxes on part paid lands	35
3977	Cancelation of taxation upon railroad lands	44
3978	Settlement of delinquent taxes on State lands	
3979	Tax—Injunction to restrain waste	44
3980	Women's auxiliary association of U. M.	1
3981	Masonic and Odd Fellow lodges and benevolent societies	9
3982	Irregular or illegal taxes	46
3983	Accounting for illegal taxes collected	54
3984	Division of government subdivisions for purchase	84
3985	Construction of acts legalizing taxes	99
3986 e. s.	Taxation for railroad bonds	35
3992	Tax on certain corporations (Superseded)	7
4035-4228	Highway laws	35
4040	Highways—Limit of appropriation of commissioner	35
4047	" Damages for opening road	35
4051-56	" Bridges between townships, etc	35
4065	" Assessment to pay certain damages	35
4072-85	" Assessments	35
4074	" Determination by town meeting	35
4087-95	" Labor tax	35
4096	" Limitation of labor tax	35
4098	" Allowance for graveling road	35
4102	" Credits on labor tax	35
4104-7	" Assessment and collection of money tax	35
4112	" Money tax	35
4120	" Assessment for expenses of highway commis'r	35
4129-34	" Bridges	35
4138-40	" Bridges between townships	35
4164	" Allowance for planting shade trees	35
4165	" Percentage of tax applied to planting trees	35
4166	" Allowance for watering troughs	35
4171	" Assessment for arrearages of labor	35, 39
4174	" Destruction of noxious weeds	35
4179	" Errors not to invalidate	35
4184	" Assessment for toll roads purchased	35
4191	" Highway blanks	35
4193-4	" Tools and machinery	35
4211	" Certification of highway tax by county clerk	35
4226-7	" Rebate for wide tires	35
4228	" Exemption from poll tax	35
4249-52	" Assessment for grades	35
4252-86	County and township road system	37
4281	County road tax	37
4287	Assessment for township roads	35
4308-96	Drain law	37
4312	Drains—Jurisdiction of county drain commissioner	37
4313	" Drain through city	37
4314	" Records filed before tax spread	37
4319	" Application for drain	37

4331	Drains	Damages and benefits	37
4340	"	Description—Assessment district—Review	37
4341	"	Period of payment	37
4342	"	Preferred bidders	37
4344	"	Apportionment of benefits	37
4345	"	Appeal	37
4346	"	Review of assessment	37
4347	"	Who prohibited from acting on appeal	37
4348	"	Duty of township board in appeal	37
4349	"	Costs on appeal	37
4350	"	Assessment of benefits—Description	37
4351	"	Assessment on part paid state land	37
4352	"	Further assessment	37
4353	"	Assessment of township	37
4354	"	Apportionment	37
4355	"	Special assessment roll	37
4356	"	Certification to supervisor	36, 37
4357	"	Spreading tax	37, 39
4358	"	Statement to township treasurer, etc.	37
4359	"	Collection	37
4360	"	Collection—Lien	37
4362	"	Drain orders receivable	37
4363-4	"	No injunction	37
4365	"	Collection of assessment—Proceedings	37
4366	"	Reassessment	37
4367	"	Suit for tax—Reassessment	37
4368	"	Suit, etc	37
4369	"	New proceedings when tax set aside	37
4370	"	Comm'r to be party of suit to set aside	37, 44
4379 80	"	Assessment for cleaning, etc., drains	37
4385	"	Assessment where drain traverses two counties	37
4388 90	"	Compensation of comm'r and deputy—Books etc	36
4424	Prevention of infectious diseases		37
4508	Assessment for poor house		37
4513	Support of out-door poor		37
4527	Support of county poor		37
4539	Maintenance of paupers		37
4544	Township poor charges		36
4547-8	Voting poor tax		36
4639-4653	School laws		36
4655	School district	Attaching resident of unorg'd ter'y to dis	36
4665	"	" Voting school tax	36
4674 5	"	" Estimate by board—Limit—Certfication to town clerk	36
4677	"	" Annual report of taxes to district	36
4681	"	" Purchase of text books	36
4686	"	" School house repairs and appendages	36
4689	"	" Director's report of moneys raised	36
4701	"	" Report of school taxes to supervisor	36
4703	"	" Apportionment of school tax	36
4704	"	" Assessment and collection of district tax	36
4705	"	" One mill tax	36
4706	"	" Assessment in case of division of district	36
4707	"	" Taxes in fractional districts	36
4708	"	" Statement to township treasurer	36
4709	School district	Statement of mill tax in fractional dis	36
4710	"	" Collection on division of district	36
4711	"	" Duties of township treasurer (Superseded by Sec. 52, General Tax Law)	36
4713	"	" Moneys due fractional districts	36
4717	"	" Provision for bonded indebtedness	36
4719	"	" Voting tax to redeem bonds	36
4727	"	" Assessment for judgment	36
4734	"	" Collection of judgment	36
4746-51	"	Graded school district	36
4763	"	Tax for libraries	36
4771	"	Apportionment of moneys collected	36
4776	"	Free text books	36
4778	"	Tax for free text books	36
4800	"	Proceedings of school board	36
4802	"	Purchase of flag	36
4817	"	Compensation of commissioner, examiners, etc	36
4831	"	Tax in township district	36
4832	"	Assessment in township district	36
4836	"	Moneys raised by tax	36
4837	"	Compensation of board of education	36
4884	Weights and measures		37
5092	Log marks		15
5095	Recorded log mark presumptive evidence		15
5196	Bond of surety companies		43
5494	Mine inspection		37
5688	Protection of orchards and vineyards		36
5715	Assessment for destruction of noxious weeds		36
5719	Cutting milkweed		36
5724	Assessment for cutting milkweed		36
5947	Assessment for agricultural, etc., societies		37
5954	County and town agricultural societies		1, 7
5963	Agricultural and horticultural societies		7
5983	Pomological, etc., societies		7
6015 e. s.	Companies for buying and selling brood animals		8
6040 e. s.	Corporation for buying, selling and breeding cattle, etc		8
6104	List of stockholders of banks		120
6148	Taxation of bank property		8, 14
6168	Taxation of trust companies		8
6277	Railroad and union depot companies		2, 7
6321	Taxation of certain railroad companies		7
6376	Taxation of union depot companies		7
6472 e. s.	Stage companies		8
6474	Stock in stage company held by mining company		8
6504	Pipe line companies		8
6523 e. s.	Rafting and booming companies		8
6560	Plank road companies		7
6610	Plank and gravel road companies		7
6629 e. s.	Bridge companies		8
6638	Assessment of bridge and toll house		44
6696 e. s.	Canal and harbor companies		8
6721 e. s.	River improvement companies		7, 8
6750 e. s.	River improvement companies		7
6764 e. s.	River improvement companies		7
6802	Water power companies		7

23040

Sec. in C. L. '97.	Subjects.	Sec.
6858 e. s.	Land companies	8
6886 e. s.	Warehouse companies	8
6985	Taxation of mining companies (Repealed)	11
7037 e. s.	Manufacturing companies	8
7099	Taxes on property of defunct mining and manufacturing Co.	46
7124	Report of stock of gas company	19
7142	Report of stock of electric light company	19
7146 e. s.	Printing and publishing companies	8
7151 e. s.	Publishing companies	8
7156 e. s.	Printing and book making companies	8
7205	Taxes of foreign insurance companies	7
7423 e. s.	Mechanics' associations	9
7447 e. s.	Trades unions	9
7455 e. s.	Co-operative associations	8
7547	Shares in cooperative associations	8
7555	Mutual Provident associations	8
7590	Shares in Michigan building and loan associations	1
7639 e. s.	Corporations for summer homes, etc.	8
7654 e. s.	Summer resort associations	8
7662	Lots sold by summer resort associations	8
7685 e. s.	Societies of marksmen	8
7692	Taxation of societies of marksmen	1
7699 e. s.	Michigan State Medical Society	7, 9
7705 e. s.	Eclectic medical societies	7, 9
7719 e. s.	Veterinary medical associations	7, 9
7725 e. s.	Bar associations	7, 9
7730 e. s.	Teachers' associations	7, 9
7863 e. s.	Colonial Dames of America	9
7953	Temperance Volunteers associations	8
7980 e. s.	Royal and Select Masters	8
7983 e. s.	White Shrine of Jerusalem	8
8010 e. s.	Rathbone Sisters	8
8135 e. s.	Lutheran Bund	8
8140-56	Institutions of learning	7, 9
8157 e. s.	Associations to establish University scholarships	7, 9
8164 e. s.	Libraries and lyceums	7, 9
8170 e. s.	Literary, scientific and art associations	7, 9
8178 e. s.	Societies for the study of literature, etc	8
8181	Taxation of property of societies for study of lit'ure, etc.	7, 9
8183 e. s.	Polytechnic associations	7, 9
8190 e. s.	Historical, etc., societies	7, 9
8198 e. s.	Associations for intellectual, etc., culture	7, 9
8204 e. s.	Associations for encouragement of fine arts	7, 8
8226 e. s.	Corporation for cultivation of art	1, 7, 9
8244 e. s.	Engineering societies	7, 9
8250 e. s.	Musical societies	8, 9
8257	Taxation of musical societies	7
8258 e. s.	Benevolent societies	7, 9
8264 e. s.	Charitable societies	7, 9
8271 e. s.	Homes for aged, etc.	1, 7, 9
8280 e. s.	Industrial and charitable schools	1, 9
8284	Limit of exemption of industrial and charitable schools	7
8288 e. s.	Hospitals and asylums	1, 7, 9
8297 e. s.	Ecclesiastical societies	7, 9
8302 e. s.	Burial grounds	7, 9
8307	Unappropriated lands of cemetery companies	7
8309 e. s.	Rural cemeteries	1
8417	Private burial grounds	1
8508	Report of stock of water company	19
8516	Tax for stock in water companies held by municipalities	107
8547	Report of stock of corporation	19
8549	Fraudulent transfer of shares in corporations	8
8567	Lists of stockholders	8
8835 e. s.	Resulting trust	72
8957	Effect of quit claim deed	72
9015	Form of quit claim deed	72
9029	Requirement as to recording deeds	72
9032	New deeds	83
9129	Irregularities that do not void sales	96
9197	Suit for waste	113
9354	Right of executor to real estate	12
9512	Proof of consideration	140
9519	Proof of consideration	140
9644	Discharge of insolvent debtor	44
9650	Assignee vested with the estate of insolvent	24
9674	Payment of debts of insolvent	24
9714	Limitation of real actions	72
9795	Suits upon official bonds	43
9843-4	Custody of official records	10
10050	Suit on official bond	43
10165	Affidavit of publication	66
10276 e. s.	Restoration of lost records	99
10318	Chattel mortgage	47
10321	Levy on crops	9, 47
10322	Property exempt from execution	9, 47
10335-7	Levy on shares	47
10360	Sale of perishable property	47
10368	Homestead exemption	7
10396	Certain oaths by public officers	18
10482 3	Judgment against municipalities	33
10651	Replevin	47
10947-11012	Action of ejectment	86
10995	Recovery for improvements	104
10996	Claim for improvements	104
11123-32	Restraint of waste	113
11153	Forcible entry	113
11182-4	Quieting title	86
11204	Trespass on lands	113
11207	Collection of damages for trespass	113
11227	Fees of register of deeds	72
11237	Fees in certain cases	108
11238	Searches, copies, etc., as required by Auditor General	99

11327	Obstructing officer	47
11361	Security of public records	99
11563	Fraud or embezzlement in public office	93
11584	Malicious injury to building	113
11587	Willful trespass	113
11612-14	Appropriation of public money or property	93
11648-9	Cutting and carrying away timber	113
11749	Trespass on public lands	113
11755	Liability of mill owner	113

PUBLIC ACTS OF 1899.

Acts No.	Subjects.	Sec.
39	Amendment of village corporation act	107
44	Publication and distribution of tax laws	121
92	Inspection and removal of records and files in offices of county, city and township officers	67
136	Cities of the fourth class, amendments	10
141	County drain commissioner a party to action to set aside drain tax	37, 144
166	Charitable societies	7, 9
179	Telegraph, telephone and express companies	7
190	Bonded indebtedness of school district	36
211	County treasurer's fee for certificate under Sec. 135	135
214	Relief outside of Soldiers' Home for soldiers, etc.	37
220	Destruction of noxious weeds	36
222	Dog tax	26
228	Moneys receivable for debts, taxes and other dues to the state	44
231	Taxation of corporations for constructing, etc., water courses	7
242	Burial of soldiers, etc.	37
244	Removal of encroachments on highways	36
248	Assessment for section corners	36
252	Suppression of mob violence	37
258	Graded school district	36
272	Construction and maintenance of drains and assessment and collection therefor	37

MISCELLANEOUS ACTS.

Acts.	Subjects.	Sec.
L. A. 378 of 1879	Wayne county treasurer collects state and county taxes assessed in the city of Detroit instead of the city treasurer	45
124 of 1883	Assessment for public improvements	39
130 of 1891	Repeal of mining specific tax laws	11
116 of 1893	Fish shutes in certain counties	37
118 of 1895	Fish shutes in certain counties	37
Howell's Stat. 8507	Redemption	73
R. S. of U. S. 5219	Taxation of national bank stock	14
U. S. Stat. Chap. 383, v. 24	Indian lands	
Sec. 10 Art. I F. Const.	Impairment of obligation of contracts	60

LATE CASES.

Where it affirmatively appears from the resolution of the township board that the question of raising the highway, contingent and school taxes has been called to the attention of the voters and from the record of the election that the electors had neglected and refused to vote the tax, the board has authority to vote such taxes.—A township board had, under such circumstances, no authority to include in the school tax an item for fuel, which was not authorized by the resolution of the board of education.—An amount voted by the township board to pay bonded indebtedness and interest thereon cannot be sustained where it appears from the records that there has already been raised by taxation an amount greatly in excess of such indebtedness and no showing is made that the money raised for this purpose has not been so applied.—A township board has authority to vote a tax for the support of the poor, even though the electors fail to make provisions for the same at the annual meeting.—A county tax is not rendered illegal by reason of the failure of the resolution authorizing the tax to show for what specific purposes the tax was voted.—Weston Lumber Co. v. Township of Munising; Chicago Lumber Co. v. Township of Munising, 7 Det. Leg. News 1.

One occupying premises under permission of the heirs as tenant in common without charge cannot charge estate with taxes paid on the property during her occupancy.—Graff v. Graff, 7 Det. Leg. News 3.

It is a fatal objection to the legality of the sale of lands for taxes that the amount decreed against the land and amount the land sold for are entered in figures on the Tax Record without dollar mark.—Russell v. Chittenden, 7 Det. Leg. News 8.

The board of review provided for by 3353 C. L. '97, to act upon the apportionment of the cost of constructing a drain through several townships, is not authorized to review the action of the drain commissioner in his determination of the entire amount of the assessment, but only to review the apportionment of such amount among the several townships.—Sholtz v. Ely, 7 Det. Leg. News 27.

One in possession of land under a land contract cannot by the purchase of a tax title which existed at the time he received his contract defeat the title of his vendor.—Curran v. Banks, 7 Det. Leg. News 50.

ERRATA.

Notes to Sec. 1, p. 10, ¶ 1.—Musical Societies.—For "1857" C. L. '97, read 8257.
Notes to Sec. 7, p. 14, ¶ 1.—For "Auketell v. Hayward," read Ludington Water Supply Co. v. City of Ludington.
Notes to Sec. 7, p. 15, ¶ 2.—For "8071" C. L. '97, read 8170.
Notes to Sec. 15, p. 25, ¶ 1.—For "Wood" read Hood.
Notes to Sec. 36, p. 47, ¶ 1.—For "Goodrich v. Detroit," 6 Det. Leg. News, read 7 Det. Leg. News 11.
Notes to Sec. 36, p. 47, ¶ 1.—For Voight v. Detroit, "6" Det. Leg. News, read 7 Det. Leg. News 21.
Notes to Sec. 47, p. 62, ¶ 6.—For 72 M. "529," read 659.
Notes to Sec. 61, p. 73.—For "Parsons," read Carson.
Notes to Sec. 72, p. 93, ¶ 3.—For "109 Mich. 388," read 104 Mich. 38.
Notes to Sec. 72, p. 94, ¶ 6.—For "Legare," read Ligare.
Notes to Sec. 72, p. 94, ¶ 6.—For "Powell," read Towl.
Notes to Sec. 73, p. 97, ¶ 1.—For "Riley," read Reilly.
Notes to Sec. 73, p. 97, ¶ 1.—For "Brooks," read Crooks.
Notes to Sec. 99, p. 116, ¶ 4.—For "the" warrant, read no warrant.

INDEX TO TAX LAW.

[Index to Subjects in Citations and Annotations follows this Index.]

	Page
ABANDONED LANDS DEEDED STATE:	
applicant for, shall file affidavit of purpose to homestead, 131	130
Commissioner of State Land Office shall issue certificates to applicant for, when, 131	130
Commissioner of State Land Office shall notify county treasurer when homesteader's title is perfected, 133	133
Commissioner of State Land Office to prescribe manner of homesteader's final proofs, 131	131
determination of Auditor General and Commissioner of State Land Office as to abandoned State tax lands, 127	128
homesteaders entitled to deed, when, 131	131
homesteaders shall pay State 10 cents per acre and improve, 131	131
homesteaders shall reside upon continuously for five years, 131	130
improvements on assessable as personal property, 132	133
limit of homesteading by one person, 131	130, 131
limitation of action to vacate determination, 127	128
not assessable until homesteader acquires title, 132	133
not liable to assessment until again sold, 130	130
payment required of applicant for, 131	130
proof of homesteader's fulfillment of contract, 131	131
recording of, 128, 129	129, 130
rules relative to entry upon, 131	131
shall be held subject to entry as homestead lands, 127, 131	128, 130
appraisal and sale of, 131	132
taxable as other lands after homesteader perfects title, 133	133
taxes on, to be canceled, 130	130
title of State deemed absolute, when, 127	128
what deemed, 127	127
when owner may deed to State, conditions, 47	60
See "State Tax Lands."	
ABBREVIATIONS:	
use of, in descriptions, 25	36
ACCOUNTS:	
basis of settlement of between State, county and township, 87	106
between county and township, county treasurer shall render and settle quarterly, 87	106
between State and county, Auditor General shall make statement of, when, 35	43
quarterly statement of, by Auditor General, 87	106
See "Money," "Statements."	
ACCOUNTS PAYABLE:	
deduction of, by bankers, 19	28
statement of, by bankers, 19	28
ACREAGE:	
assessment roll shall show, 24	33
of platted real property need not be specified, 24	33
statement of real property to contain, 19	29
supervisor to determine, 24	33
See "Real Property."	
ACT NO. 200, PUBLIC ACTS OF 1891:	
proceedings and acts done under, held valid, 124	126, 127
repeal of, 126	127
repeal of, shall not affect accrued rights, 125, 126	127
return to Auditor General of doings of county clerk and county treasurer under, 123	126
ACTION:	
See "Suit."	
ACTUAL VALUE:	
of certain stock, 19	29
See "Cash Value."	
ADJOURNMENT:	
of sale of property seized for taxes, 47	59

	Page
ADMINISTRATOR:	
assessment to, 14	22, 23
may take reconveyance from purchaser for taxes, 141	139
notice to, by purchaser for taxes, 140	138
when treated as owner, 3	11
ADVERSE CLAIM:	
to State tax land, 86	105
ADVERTISING:	
cost of, how paid, limit of, 65	76
See "Newspapers," "Publication."	
AFFIDAVIT:	
of loss of certificate of sale, 72, 83	92, 102
of loss of certificate of sale, making of false, 73	92
of posting and distribution of copies of order and petition, 64	76
of publication of order and petition, 66	76
township treasurer's statement of tax on personal property uncollected verified by, 55	68
with intent to defraud, penalty for, 72	92
See "Oath," "Sworn Statement."	
AGENT:	
assessment to, capacity to appear, 24	33
of real property of corporation, assessment to, 5	12
statement of money or property held as, 18, 19	26, 31
when treated as owner, 3	11
AGRICULTURAL IMPLEMENTS:	
statement of, 19	30
AGRICULTURAL SOCIETIES:	
property of exempt, when, 7	13
ALDERMEN:	
ineligible to appointment by council as members of board of review, 107	130
ANIMALS:	
where and to whom assessed, 14	22
See "Domestic Animals," "Live Stock."	
ANNUITIES:	
taxable, 8	16
sworn statement of, 19	30
APPEAL:	
from decree of sale, allowed when, 67	83
person contesting to pay decree to county treasurer, when, 67	83
shall not affect sale of other land, 67	83
to supreme court, notice of and bonds for, 67	83
when by State no bond required, 67	83
See "Circuit Court," "Supreme Court."	
APPORTIONMENT:	
certificates of, to be delivered to township clerk and supervisor, 38	50
of State and county tax to township by board of supervisors, 37	47
of State tax by Auditor General, 35	42
taxes invalidated by fraudulent, 76	100
APPURTENANCES:	
of boats taxable as personal property, 8	16
of vessels, statement of, 19	29
to buildings are real property, 2	10
ARMORIES:	
belonging to military organizations exempt, when, 7	13
ASSESSING OFFICER:	
compensation for attendance at review of roll by State Tax Commissioners, 152	145
complaint by, against person refusing, etc., 19	29
duties of, 18	26
every resident owner, etc., shall deliver sworn statement of property to, on demand, 19	29
member of board of review in cities, when, 107	130
shall appear with assessment roll before State Tax Commissioners, when, 152-3	144, 146
shall assess taxes apportioned, 39	51
shall file sworn statement and present to board of review, 23	32
shall foot taxes on roll, 41	53
shall give township clerk statement of taxes on roll, 41	53
shall not accept sworn statement as final, when, 20	31
shall require sworn statement of taxable property, 18	26
State Tax Commissioners to advise, etc., 150	142
State Tax Commissioners to prefer charges to Governor for violation of law by, 150	142
time for completing assessment roll by, 24	33
to enter personal property and real property separately, 19	28
to make assessment in certain cities and villages, 10	20
willfully erroneous assessment by, penalty for, 116	124
See "Assessor," "Supervisor."	
ASSESSMENT:	
charter provisions govern in cities and villages, when, 107	99
courts shall not hold taxes invalid for defective, when, 99	113
direction of board of supervisors to spread taxes upon roll final, 37	47
expense of, to be paid by township, 90	108
no injunction shall issue to stay proceedings for, 114	122
not affected by organization of new county, 105	119
of abandoned lands deeded State, after homesteader's title is perfected, 133	135
of buildings on public lands, 14	23

	Page
ASSESSMENT—*Continued:*	
of contiguous lands, separate assessment shall not invalidate, 24	33
of contiguous lands, when to be as one parcel, 24	33
of co-partnership property, 12	21
of corporate property, 11	21
of forest products, 14, 15, 16	23, 25
of homestead land, when, 4, 132	12, 123
of interest in part paid State land, 4, 132	12, 123
of personal property in certain cases, 22	33
of personal property on public lands, 14	23
of property of insurance companies, 11	21
of real property, 3, 4, 5, 6	11, 12
presumed legal, 99	113
real property and personal property liable to, 1	9
review of, by State Tax Commissioners, 152-3	144-6
statements of property evidence in proceedings arising, 20	31
taxes invalidated by fraudulent, 76	100
to agent, guardians, etc., capacity to be shown, 24	33
to be made annually, 10	20
See "Assessment Roll," "Personal Property," Real Property," "Special Assessment."	
ASSESSMENT ROLL:	
as equalized, certified by chairman and clerk of board of supervisors, 34	41
board of review to review and correct, 29	38
board of supervisors shall direct taxes spread upon, 37	47
board of supervisors to deliver to supervisor, 34	41
correction and additions to roll by State Tax Commissioners, 142	145
each tax to be in separate columns on, 39	51
form of endorsement of, 30	39
how made, 24	33
informality or irregularity in shall not invalidate tax, 99	113
majority of board of review shall indorse, 30	39
omission of indorsement shall not affect validity of, 31	40
organization of new county after making, effect of, 105	119
presumed valid after endorsement of board of review, 31	40
record of changes in to be filed with township clerk, 33	41
shall not be set aside except, 31	40
subject to inspection and review by State Tax Commissioners, 152-3	144, 145
supervisors shall prepare copy and annex warrant thereto, 42	54
to be filed and kept by supervisor, 34	41
when to be completed, 24	33
with warrant annexed known as "tax roll," 42	54
See "Tax Roll."	
ASSESSOR:	
county treasurer shall furnish with copies of tax laws, 121	135
forms for use of, 19	27-31
may add one per cent. to avoid fractions, 39	51
See "Assessing Officer," "Supervisor."	
ASSIGNEE:	
issue of tax deed to, 101	117, 118
of mortgagee, right of in case of tax sale, 140	137
statement of money or personal property held as, 19	31
when treated as owner, 3	11
ASSIGNMENT:	
of personal property, tax lien takes precedence of, 40	53
See "Assignee."	
ASSOCIATIONS:	
statement by, 19	28
See "Corporations."	
ATTORNEY:	
statement of money or personal property held as, 19	31
ATTORNEY GENERAL:	
Auditor General may cause him to represent him in certain cases, 144	140
AUCTION SALE:	
of property seized for taxes, 47	59
of State tax lands, 79	101
AUDITOR GENERAL:	
affidavit of publication, etc., of order and petition shall be filed with, 64	75, 76
and Commissioner State Land Office shall cause examination of certain State tax land, 127	128
board of supervisors to furnish with list of charged back taxes on land detached from county, 97	112
concelation of, taxes on abandoned State tax lands deeded State, 130	130
collection fee paid to belongs to State, 89	108
Commissioner State Land Office shall furnish with statement of taxes paid on lands, 103	118
copies of paper publishing order and petition to be furnished to, 66	76
county clerk shall forward county treasurer's duplicate receipts to, 58	71
county clerk shall transmit copy of order of circuit judge to, 62	73
county treasurer shall execute bond to for State moneys, 93	109
county treasurer shall forward, transcript of lands returned delinquent to, when, 57	70
county treasurer shall note on Tax Record sales of State tax land by, 88	108
county treasurer shall report sales of delinquent tax land to when confirmed, 70	87

AUDITOR GENERAL—*Continued:* Page
expense on taxes voluntarily paid to, 89 ... 108
fee paid to for second deed, 83 ... 102
lands returned to, subject to sale, etc., when, 60, 138 ... 71, 136
may add to prescribed form of Tax Record as necessary, 61 ... 73
may cancel deed made by county treasurer and issue new deed on request, 124 ... 126
may cancel sales of lands bid to the State in contravention of law and enforce collection of the taxes, 139 ... 138
may cause Attorney General to represent him in tax cases, 144 ... 140
may cause examination to be made of proceedings under which State tax lands were bid to State to determine regularity, 139 ... 138
may demand of county clerks copies of records, etc., 123 ... 126
may direct appeal from circuit court to supreme court, 67 ... 83
may execute deed to deceased persons, etc., 101 ... 117, 118
may extend time for return of delinquent taxes by county treasurer, 57 ... 70
may furnish State trespass agent list of State tax lands, 113 ... 122
may issue certificate of error, when, 98 ... 112
may require certificate of county clerks as to suits pending relating to abandoned State tax lands, 127 ... 128
may require new bond of county treasurer, 93 ... 109
not required to revise acts done under law of 1891, 124 ... 126
payment of redemption to, 74 ... 93
payment of taxes to in advance of suits relative to abandoned State tax lands or tax homestead lands, 127, 131 ... 129, 132
perfection of records in office of, 123 ... 126
prosecuting attorney shall send copy of bills to set aside taxes or sales to, 114 ... 140
records, papers and proceedings of Board of State Tax Commissioners part of records of his office, 148 ... 141
refunding by, on sales set aside, 73 ... 96
register of deeds shall notify of decree of annulment of tax deed, 75 ... 99, 100
register of deeds to require certificate of before filing or recording certain instruments of conveyance, 135 ... 133, 134
report to, of assessed valuation and taxes levied, 41 ... 53, 54
return of records, etc., of delinquent taxes for 1891 and 1892 to, 123 ... 126
return of sheriff's warrant for seizure, etc., to, 113 ... 122
shall adjust charge and credit for rejected, etc., taxes on lands detached from county, 105 ... 119
shall audit expense made by State officers under Act 206, 90 ... 108
shall be lawful custodian of records of Board of State Tax Commissioners, 146 ... 141
shall be party to all actions to set aside taxes or tax sales, 144 ... 140
shall cause copy of order and petition published, 66 ... 76
shall cause order and petition printed and circulated, when, 64 ... 75, 76
shall cause printing of tax laws, etc., 121 ... 125
shall cause return of delinquent taxes of 1891 and 1892 to be recorded, 123 ... 126
shall cause sale of State tax lands returned delinquent, 78, 85 ... 101, 104
shall charge and credit counties for rejected taxes, when, 97 ... 112
shall charge local taxes to county when land is deeded State to discharge levy, 47 ... 60
shall charge counties certain refundings, 73 ... 96
shall credit counties with taxes reported by Commissioner of State Land Office as paid, 103 ... 118
shall designate newspapers, etc., when, 63 ... 75
shall draw and send to county treasurers warrant quarterly for moneys due counties, etc., 87 ... 106
shall employ person to conduct tax sales, when, 94 ... 110
shall examine notices published, 66 ... 76
shall execute deeds for delinquent tax lands, when, 70, 72 ... 87, 92
shall file new petition for decree, when, 67 ... 83
shall file petition for sale of delinquent lands with county clerk, 61 ... 72
shall fix amount of county treasurer's bond for State money, 93 ... 109
shall furnish county treasurer statement of rejected taxes, 96 ... 111
shall furnish list of State tax lands to county treasurer, 78 ... 101
shall issue deed for State tax lands, when, 82, 84 ... 102, 103
shall issue deed on affidavit of loss of certificate, when, 72, 83 ... 92, 102
shall issue warrant for seizure and sale of timber, etc., removed from State tax lands, 113 ... 122
shall make and record statement of State taxes, when, 35 ... 42, 43
shall make list of abandoned State tax lands deeded State and transmit to county treasurer, 130 ... 130
shall make quarterly statement of accounts between State and counties, 87 ... 88
shall not pay for illegal publications, 66 ... 76
shall notify county clerk of warrants sent to county treasurer, 87 ... 106
shall notify county treasurer of redemptions, when, 74 ... 99
shall perform all duties relative to assessment, levy, collection, return and sale of taxes as required by act, 124 ... 126
shall prepare petition for sale of delinquent lands, when, 61 ... 72
shall provide and furnish to county clerks and county treasurers, forms, blanks and record books made necessary by act, 122 ... 125
shall publish notice of annual sale of State tax lands, 79 ... 101
shall publish notice of deferred sale, when, 70 ... 87
shall refund money paid for tax lands, when, 98 ... 112
shall require of county treasurers copies of records, etc., 123 ... 126
shall transmit to county clerks statement of State tax, 35 ... 43

	Page
AUDITOR GENERAL—*Continued:*	
shall transmit to county treasurers, at expense of counties, sufficient copies of tax laws, 121	125
shall transmit to county treasurers monthly statement of lands bid to State sold, 88	108
shall transmit to county treasurers monthly statement of taxes paid to State treasurer, 88	108
shall withhold lands from sale, when, 95	110
showing made to satisfaction of, on redemption, 74	98
signature to petition for decree of sale sufficient verification, 61	72
statement by of taxes due at time of issue of certificate of no taxes, 93	112
statement of State tax lands by, what to contain, 78	101
State trespass agent, sheriff and county treasurer to report trespass on State tax lands to, 113	122
tax deeds issued by, held conclusive, 99	114
to cause subsequent sale of lands decreed, when and how, 70, 139	87, 136
to prescribe *form of county treasurers'* redemption certificate, 74	98
warrant of, for cost of advertising, 65	76
warrant of, for expense of advertising and sale, 70	87
warrant of, for moneys due county, etc., 87	106
BANKS:	
cashier shall file list of stockholders, etc., 120	124
collection of taxes upon stock of, 46	58
exception as to certain, 19	30
examination of officer of refusing to make required statement, 19	29
investigation by assessing officer at expense of, 19	29
shares in, how assessed, 14	22
shares in, statement of, 19	27
shares in, taxable, when, 8	16
statement by officers of, 19	27, 28
willful neglect or false statement by cashier, penalty for, 120	124, 125
See "Corporations," "National Banks."	
BARGE:	
statement by owner of, 19	29
BARREN LANDS:	
transfer to State, 127	128
BENEVOLENT INSTITUTIONS:	
property of exempt, when, 7, 9	12, 18
BILLIARD TABLES:	
and appurtenances, statement of, 19	30
BILLS RECEIVABLE:	
statements of, deductions from, 19	27
BIRDS:	
domesticated, exempt, 9	19
BLANKS:	
Auditor General shall furnish to county clerks and county treasurers at expense of State as made necessary by act, 122	125
See "Forms."	
BOARD OF ESTIMATES:	
common council to determine compensation of, 110	122
See "Board of Review."	
BOARD OF REVIEW:	
compensation for services, 110	122
election of members of, 28	38
elective or appointive members shall take constitutional oath, 28, 107	38, 120
form of endorsement by, 30	39
fraudulent action by invalidates tax, 76	100
in cities, common council to determine compensation of, 110	122
in cities, organization and proceedings of, 107	120
majority constitute quorum, 28	38
majority of shall endorse assessment roll, 30	39
majority present decide questions, 28	38
may examine persons on oath, 30	39
may exempt property of poor persons, when, 7	13
members of may administer oath to person examined, 30	39
notification of absent members, 32	41
place and time of meeting, 29, 30	38, 39
place and time of meeting in cities, 107	120
provisions relative to include similar officers in cities, 107	120
record of proceedings to be filed with township clerk, 33	41
second meeting of, 30, 32	39, 41
shall add to roll, when, 29	38
shall compare list of tax homstead lands and assessment roll, 130	139
shall correct assessments at request, 30	39
shall correct errors in assessment roll, 29	38
shall enter valuations as fixed by it, 29	38
shall pass upon each valuation, etc., 29	38
shall place on assessment roll all homestead lands that have been deeded, 131	133
statements to be presented to, 23	32
supervisor or clerk shall keep record of proceedings, 33	41
to review assessment roll, 29	38
who to compose in certain cities, 107	120
who to compose in townships, 28	38
wilfully erroneous assessment by, penalty for, 116	124

Page

BOARD OF STATE AUDITORS:
shall audit and allow salaries and expenses of State Tax Commissioners, 147.. 135
shall cause report of Board of State Tax Commissioners to be printed, 107.. 144
shall audit expenses of township treasurer in making levy for taxes, when, 47.. 60
shall audit claims for expenses incurred in abandoned State tax lands deeded state, 134.. 133
shall audit claims for services and expenses in publication of tax laws, 121.. 126
shall furnish office for Board of State Tax Commissioners, 148.. 141
BOARD OF STATE TAX COMMISSIONERS:
See "State Tax Commissioners."
BOARD OF SUPERVISORS:
action of, upon township et al. taxes, shall be entered on records, 37.. 47
compensation for certain services, 110.. 122
county clerk to present statement of township et al. taxes, 36.. 43
county treasurer shall present statement of taxes rejected by Auditor General to, 96.. 111
may allow compensation to county treasurer and county clerk for extra services under Sec. 123, 123.. 126
may authorize notice to delinquent taxpayers, 58.. 71
may refer papers, etc., to prosecuting attorney, 37.. 47
may require defects or omissions corrected, 37.. 47
prosecuting attorney shall advise without charge, 100.. 117
records of to contain apportionment of State and county taxes, 37.. 47
shall cause rejected taxes reassessed, when, 96.. 111
shall consider objections to any tax, 37.. 47
shall determine and apportion State and county taxes, when, 37.. 47
shall determine compensation of county officers for certain services, 110.. 122
shall direct township et al. taxes spread upon assessment roll, 37.. 47
shall equalize valuation of assessment rolls, 34.. 41
shall examine records, etc., showing money to be raised in townships, 37.. 47
shall make alterations in descriptions of lands upon assessment rolls as necessary, 34.. 41
supervisors shall take official notice of action of, 38.. 50
to apportion indebtedness of county to State, 35.. 43
valuation of taxable property to be entered upon records of, 34.. 41
See "Supervisors."
BOATS:
appurtenances of, 8.. 16
statement of, 19.. 29, 30
taxable as personal property, 8.. 16
BOND:
of county treasurer to Auditor General, 93.. 109
of person employed by Auditor General to conduct tax sales, 94.. 110
of township treasurer, conditions of, 43.. 55
of township treasurer, county treasurer shall endorse settlement on, 56.. 69
of township treasurer, county treasurer shall receipt for, file and keep, 43.. 55
of township treasurer, failure to file with county treasurer, 51.. 65
of township treasurer, neglect to give, 50.. 64
of township treasurer, shall continue in force after settlement, when, 56.. 69
of township treasurer, to be approved by supervisor and county treasurer, 43 55
of township treasurer, treasurer shall deliver receipt for to supervisor, 43.. 55
on appeal, to be given, when, 67.. 83
to secure release of lien for taxes paid on certain forest products belonging to non-residents, 14.. 24
See "Liability," "Sureties."
BONDS:
statement of, 19.. 27
See "Stock."
BONDSMEN:
See "Sureties."
BOUNDARIES:
rejected taxes, when changed, charged to what county, 95.. 110
BRIDGE COMPANIES:
personal property of, 8.. 17
See "Corporations."
BRIDGES:
of certain companies held to be personal property, 8.. 17
BROKERS:
statement by, 19.. 27
BUILDINGS:
on leased lands taxable as personal property, when, 8.. 16
on public lands, assessment of, 14.. 23
on public lands, sale of for taxes, 14.. 23
See "Real Property."
BURIAL GROUNDS:
exempt, when, 7.. 13
right of burial in exempt, 7.. 13
tombs and monuments therein exempt, 7.. 13
tombs and vault in, kept for hire, assessable, 8.. 16
CABLE RAILROAD COMPANIES:
personal property of, 8.. 17
See "Corporations."
CANCELATION OF SALE:
judgment for improvements in case of, 73.. 96
of land bid to State under invalid decree or sale, 130.. 136

	Page
CANCELATION OF SALE—*Continued:*	
of lands of incompetent persons, when, 69	85
practice of court in, 70	87
prohibited after five years' possession, 73	90
CANCELATION OF TAXES:	
on abandoned lands deeded to State, 130	130
on land deeded State to discharge levy on personalty, 47	60
CAPITAL PAID IN:	
See "Stock."	
CAPITAL STOCK:	
See "Stock."	
CARRIAGES:	
statement of, 19	30
CASH ITEMS:	
deduction from, 19	27
statement of, 19	27
CASH VALUE:	
of personal property of associations or corporations, 19	28
of property pawned, 19	28
of shares in banks and corporations, 19	30
of stock in trade of pawnbroker, 19	28
of stock of marine companies, 19	29
shares in banks assessed at, 8	16
supervisor shall estimate and set down on assesment roll, 24	34
term defined, 27	37
CASHIER:	
See "Bank."	
CATTLE:	
one year old and under exempt, 9	19
CEMETERIES:	
See "Burial Grounds."	
CEMETERY ASSOCIATIONS:	
stock of assessable, 7	13
CERTIFICATE:	
of apportionment of taxes to counties, county clerk shall make and deliver to county treasurer and supervisors, 38	50
of Auditor General required before recording deed to railroad right of way, 135	134
of chairman and clerk of board of supervisors to equalization of assessment rolls, 34	41
of county clerk that no suit is pending to set aside taxes, etc., 127	123
of county treasurer to statement of taxes on personal property uncollected, 55	68
of examination and comparison of township treasurer's returns, 55	68
of examiner of abandoned State tax land, 127	123
part paid, for State lands, 4	12
required by act evidence of facts set forth, 99	114
required of township or school district board, how signed, 99	114
See "Certificate of Error," "Certificate of No Tax," "Certificate of Sale," "Redemption Certificate."	
CERTIFICATE OF ERROR:	
may be issued by Auditor General, when, 98	112
CERTIFICATE OF NO TAXES:	
holder of shall pay taxes to State Treasurer, when, 98	112
refunding of proceeds of tax sales because of, 98	112
CERTIFICATE OF SALE:	
affidavit of loss of, 72, 83	92, 102
annulment of, 75	99
county treasurer shall give to purchaser of delinquent tax lands, 71	91
county treasurer shall give to purchaser of State tax lands, 81	102
executor or administrator may assign, 101	117, 118
form of, 71, 81	91, 102
holder of entitled to injunction to restrain waste, when, 115	123
numbers of to be entered in Tax Record, 61	73
of delinquent tax lands, county treasurer shall issue, 71	91
of delinquent tax lands, Auditor General shall issue deed on surrender of, 82	102
of State bid, 84	103
of State tax lands, county treasurer shall issue, when, 81	102
presentation of to Auditor General for deed, 72 82	91, 102
purchaser of State tax land shall receive, 34	103
refunding on affidavit of loss of, 72	92
separate for each parcel, 71	91
shall be entered in Tax Record, 71	91
what shall contain, 70, 71	86, 91
See "Delinquent Tax Lands," Affidavit of Loss."	
CERTIFICATION:	
See "Certificate."	
CHANCERY PRACTICE:	
to govern proceedings to set aside sale, 70	87
to govern proceedings where validity of tax is in dispute, except as otherwise provided in act, 67	83
CHARGES ON TAXES:	
added to when paid county treasurer, 59	71
on lands bid to State, continue lien until paid, 70	86
See "Collection Fee," "Expenses," "Interest on Taxes."	

	Page
CHARITABLE HOMES:	
certain exempt, 7	12
personal property of exempt, 9	13
CHARITABLE INSTITUTIONS:	
personal property of exempt, when, 9	13
real property of exempt, when, 7	12, 13
CHARTER:	
provisions of as to assessor to govern, 10	20
provisions of govern assessment and collection in cities and villages, when, 107	120
See "Cities." "Villages."	
CHATTEL MORTGAGE:	
tax lien takes precedence of, 40	53
CHATTELS:	
situate without State taxable, when, 8	16
statement of, both exempt and taxable, 19	30, 31
taxable as personal property, 8	16
CHECKS:	
deductions from, 19	27
statement of, 19	27
CHURCHES:	
See "Houses of Public Worship."	
CIRCUIT COURT:	
appeal of Auditor General or county treasurer from, 67	83
authorized to withhold land of incompetent persons from sale, when, 69	85
chancery practice to govern, when, 67	88
clerk of shall make certified copy of decree, etc., when, 75	99
decree of, a several decree, 66	78
decree of, shall be entered in chancery record, 67	81
decree of, when taxes not fully considered at date of hearing, how made and recorded, 67	82, 83
final decree of sale, when made, 67	83
for Ingham county, suits to vacate determination as to abandoned State tax land may be brought in, 127	128
jurisdiction of in matter of petition, 66	76
may decree costs against persons contesting, 66	78
may enter decree of sale for taxes of 1890 and prior years without including interest, 138	135
may grant further time to answer petition, when, 66	77
may make order to facilitate proceedings, 66	77
may order sale deferred or canceled, when, 69	85
may put purchaser of tax lands in possession by writs of assistance, 72, 137	92, 135
may separate taxes, etc., when, 66	77
may set aside sale, when, 70	87
orders of entered on Tax Record, 66	77
petition of Auditor General to for decree of sale, 61	72
proceedings on second petition for decree, 67	83
rules as to evidence in hearing on petition, 66	77
shall appoint person to prosecute petition, when, 66	77
shall decide admissibility of evidence, 66	77
shall give precedence to hearing of petition, 66	77
shall make decree for taxes unless proved illegal, 66	77, 78
shall make final decree ten days prior to time of sale, 66	77
shall set aside illegal taxes, when, 66	77
special orders made shall be entered in Tax Record, 61	73
See "Appeal." "Circuit Judge." "Petition for Decree."	
CIRCUIT COURT COMMISSIONER:	
to issue summons for persons refusing, etc., 19	29
CIRCUIT JUDGE:	
county clerk to present petition for decree to, 62	73
form of order by, 62	74
settlement of record on appeal from, 67	83
shall sign each order, 66	77
shall sign final decree, 67	82
to make order and sign in form prescribed, 62	73
See "Circuit Court."	
CIRCULATING LIBRARIES:	
personal property of exempt, when, 9	13
CITIES:	
board of review in, who compose, 107	120
charter provisions to govern collection of taxes, 46	58
common council of to determine compensation of certain officers, 110	122
description of lands in, 25	35
lands owned by, exempt, when, 7	12
may provide by ordinance for return of delinquent taxes on real property to county treasurer, 108	121
may provide for judicial sale for delinquent taxes on real property, when and how, 108	121
may provide for return of unpaid taxes on real property to county treasurer, 108	121
not entitled to delinquent taxes until paid, 107	120
real property of railroad companies subject to assessment for improvements, 7	20
supervisors of to make annual assessment, when, 10	20
this act applicable to, except when, 107	120
word township includes, 107	120

	Page
CITY ASSESSORS:	
common council to determine compensation of, 110	122
See "Assessing Officer," "Assessor," "Supervisor."	
CITY ATTORNEY:	
shall be member of board of review in certain cities, 107	120
CITY CLERK:	
See "Township Clerk."	
CITY COLLECTOR:	
shall comply with charter provisions relative to demand for taxes, 46	58
See "Township Treasurer."	
CITY OFFICERS:	
compensation of, fixed by common council, 110	122
CITY TAXES:	
report of to county clerk, 41	53
CLERK OF BOARD OF SUPERVISORS:	
See "County Clerk."	
CLERK OF COURT:	
shall make certified copy of judgment, etc., 75	99
See "Circuit Court," "County Clerk," "Supreme Court."	
COKE COMPANIES:	
personal property of, 8	17
COLLECTION FEE:	
for collection of tax on personal property removed, 48	63
on enforced collection, 44	56
on taxes paid after January 10, four per cent, 44	56
on taxes paid before January 10, one per cent, 44	56
on taxes paid county treasurer, 59	71
on taxes returned to county treasurer, 89	108
paid Auditor General shall belong to State, 89	108
paid county treasurer shall belong to county, 89	108
shall be collected with taxes, 89	108
shown in the petition for decree, 61	72
township treasurer shall add to tax, 44	56
COLLECTION OF TAXES:	
by distress and sale, 42	54
by seizure and sale, 47	59, 60
by township treasurer, supervisor's warrant for, 42	54
charter provisions for, to govern in cities, 46	58
duties of Auditor General relative to, 124	126
no injunction shall issue to stay proceedings for, 114	123
not affected by organization of new counties, 105	119
on part paid and homestead lands, 4	12
time for, etc., 44	56
township treasurer to make before March 1st, 45	57
township treasurer to make personal demand for, when and where, 46	57, 58
to be enforced in case of sales set aside or canceled as if sale had not been made, 73	96
See "Delinquent Taxes," "Returns," "Tax Sales," "Township Treasurer."	
COMMISSIONER OF HIGHWAYS:	
highway tax to be paid out on order of, 52	65
COMMISSIONER OF STATE LAND OFFICE:	
and Auditor General shall cause examination of certain State tax lands, 127	128
copy of Auditor General's deed to State of abandoned State tax lands shall be filed in the office of, 127	128
county treasurer shall make return to, of taxes paid on homestead and part paid State lands, when, 102	118
delivery to, of deed to discharge levy, 47	60
duty of to examine and appraise tax homestead land, when, 131	132
shall certify to expenses of levy in case of lands deeded to State by owner, 47	60
shall furnish Auditor General and county treasurer statement of taxes paid on homestead or part paid lands, when, 103	118
shall furnish county treasurer list of homestead lands licensed five years, 92	109
shall furnish county treasurer list of part paid State lands, 92	109
shall hold abandoned State tax lands deeded to State by Auditor General, subject to homestead entry, 131	130
shall keep record of abandoned State tax lands deeded State separate from other State lands, 129	130
shall keep record of appraisal of tax homestead lands, 131	132
shall keep record of homestead and part paid State lands returned delinquent, 102	108
shall pay to State Treasurer all moneys received from abandoned State tax lands, 134	133
COMMON COUNCIL:	
to appoint certain members of board of review, 107	120
to determine compensation for certain services of certain officers, 110	122
See "Township Board."	
COMPANIES:	
not paying specific taxes, personal property of, 8	17
statement by officers, of, 19	28
See "Corporations."	
COMPENSATION:	
of assessing and reviewing officers, 110	122
of county clerk and county treasurer for extra services under Sec. 123, 123	126
of county officers, paid by county, 90	108

	Page
COMPENSATION—*Continued:*	
of person employed by Auditor General to conduct tax sales, 94	110
of township officers, paid by township, 90	108
of township treasurer for levy in case land is deeded to State, 47	60
CONFIRMATION OF SALE:	
provisions relative to, 70	87
sales set aside after, 70	87
CONTEST:	
of validity of tax, notice to be filed with county clerk, 66	77
of validity of tax, notice to be served on prosecuting attorney, 66	77
shall make no objection not specified in notice filed, 66	77
See "Appeal."	
CONTINGENT FUND:	
of township, excess from one per cent added to avoid fractions belongs to, 39	51
CONTRACT:	
manufacturing, effect of, 14	22
See "Abandoned Lands Deeded State," "Land Contract."	
CONTROL:	
of real property, liability of person for, 3	11
CONVEYANCE:	
containing no warranty, provision relative to recording, 135	133, 134
of title to tax lands: See "Deeds," "Tax Deeds."	
COPARTNERSHIP:	
each partner liable for taxes, 12	21
residence of, 12	21
treated as individual, 12	21
COPY OF DECREE OF SALE:	
shall be annexed to Tax Record, 67	82
CORDWOOD:	
where assessable, 15	25
CORPORATE PROPERTY:	
how assessed, 11	21
See "Corporations."	
CORPORATIONS:	
assessment of personal property under control of, 19	30
corporate property assessed to, 11	21
demand on for payment of taxes, where made, 46	57, 58
examination at expense of, 19	29
exception of certain, 19	28
office of deemed residence, 11	21
organized in State for maritime commerce or navigation, personal property of, where assessed, 11	21
owning burial grounds or burial vaults, stock of not exempt, 7, 8	13, 16
paying specific taxes, examination of books and persons by State Tax Commissioners, 148	142
paying specific taxes, exempt when, 11	21
real property of, certain exempt, 7	13
real property of, how and where assessed, 5	12
refusal of officers of to make statement, 19	29
shares in, statement of, 19	30
shares in, taxable, when, 8	16
statement by, 19	28
statement of shares in, 19	27
statement of taxable property of, 18, 19	26, 28
what property of taxable, 11	21
wilful neglect or refusal by officer of, penalty for, 120	124, 125
See "Banks," "Shares," "Foreign Corporations."	
COSTS:	
against contestant of tax, court may decree, 66	78
execution awarded for, 67	82
in action of ejectment against homesteader to be borne by the State, 131	132
in case State's title is found void in action of ejectment against homesteader to be withheld from payment made as condition precedent to action, 131	132
in proceedings to set aside taxes or sales none to be taxed, 144	140
COUNTIES:	
adjustment between, by Auditor General, of rejected et al. taxes on lands detached, 105	119
apportionment of State taxes among, 35	43
Auditor General shall credit with taxes reported by Commissioner of State Land Office as paid, 103	118
equalization by supervisors of valuation in, 34	41
indebtedness of, to State, statement of Auditor General to show, 35	42
indebtedness of, to State, to be levied in county taxes, 35	43
lands owned by exempt, when, 7	12
shall bear their share of loss for taxes canceled in abandoned State tax land deeded State, 130	130
COUNTY CLERK:	
Auditor General shall furnish at expense of State, with certain blanks, etc., 122	125
Auditor General to file petition for sale, etc., with, 61	72
Auditor General to transmit statement of State tax to, 35	43
compensation of for certain services, 110	122
compensation of under requirements of Section 123 to be allowed by board of supervisors, 123	126

COUNTY CLERK—*Continued:* Page

compensation of under requirements of Section 123 to be paid by county, 123.. 126
duty to furnish Auditor General certificate as to suits to set aside taxes in certain cases, 127 129
notice of Auditor General to of statement and warrant sent county treasurer, 87 106
report of tax sale filed with, 70 87
shall charge county treasurer amounts sent him by Auditor General, 87 106
shall compare and certify to county treasurer's transcript of lands returned delinquent, 57 70
shall countersign and record county treasurer's redemption certificates, 74 98
shall countersign and record orders of court, 62 73
shall countersign final decree, 67 82
shall countersign, record and forward to Auditor General, county treasurer's duplicate receipts, 58 71
shall deliver to county clerk and supervisors certificate of taxes apportioned to townships, 38 50
shall forward duplicate tax receipts to Auditor General, 58 71
shall make and transmit to Auditor General copy of order of court, 62 73
shall make certificates of apportionment to townships, 38 50
shall make certified copy of decree annuling tax deed or certificate of sale, when, 75 99
shall make certified copy of decree of sale and annex to Tax Record, 67 82
shall notify supervisor of stockholders in bank, 120 124
shall present petition for decree to circuit judge, 62 73
shall report assessed valuation and taxes levied to Auditor General, 41 53
sheriff's return of notice under Sec. 140 to be filed with, 140 137
supervisor shall take official notice of records in office of, 38 50
to approve bond of county treasurer to Auditor General, 93 109
to file statement of township et al. taxes, 36 43
to present statement of township et al. taxes to board of supervisors, 36 43
See "County Officers."

COUNTY OFFICERS:

compensation of and expenses incurred by, paid by county, 90 108
compensation of determined by board of supervisors, 110 122
losses by default of, chargeable to county, 91 109
shall report trespass on State tax lands to county treasurer or sheriff, 113 122
taxes on lands withheld by reason of error of, chargeable to county, 95 110
See "County Clerk," "County Treasurer," "Officers."

COUNTY TAX:

Auditor General shall transmit warrant for, when, 87 106
board of supervisors shall determine and apportion, 37 47
indebtedness of county to State to be levied in, 35 43
interest on belongs to county, 89 108
loss of on abandoned lands deeded State borne by county, 130 130
refunding of not required, when, 86 106
refunding on account of canceled sales of, charged back, when, 73 96
supervisor shall enter in separate column on roll, 39 51
supervisor shall notify township treasurer of, 43 54
township treasurer shall give county treasurer bond for, 43 55
township treasurer to pay to county treasurer, when, 42, 54 54, 67
See "Assessment."

COUNTY TREASURER:

advertisement and sale of lands heretofore under law of 1891 valid, but subject to the provisions of Sec. 98, 124 126, 127
annual sale of State tax lands by, 79 101
Auditor General may cancel deed made by, when, 124 126
Auditor General shall furnish with blanks, etc., at expense of State, 122 125
Auditor General shall furnish list of State tax lands to, 78 101
Audtior General shall notify of redemptions, when, 74 99
Auditor General shall transmit tax laws to, 121 125
bond of township treasurer to, 43 55
bond of to Auditor General, conditions, sureties, 93 109
bond of to Auditor General, how approved, 93 109
cause for removal of, 93 109
collection fee added to taxes returned to, 89 108
collection fee paid to belongs to county, 89 108
Commissioner of State Land Office shall furnish with list of part paid and homestead lands, 92 109
Commissioner of State Land Office shall notify when homesteader has perfected title, 133 133
compensation of for certain services, 110 122
compensation of under requirements of Sec. 123 to be as allowed by board of supervisors, 123 126
compensation of under requirements of Sec. 123 to be paid by county, 123 126
continuance of sale by, 70 85
copies of papers publishing order and petition to be furnished to, 66 76
deeds heretofore issued by valid, 124 126
deeds issued by, Auditor General may cancel, when, 124 126
delinquent taxes may be paid to before day of sale, 106 119
duty of to prosecute for failure to pay bid for delinquent tax lands, 70 86
expense on taxes voluntarily paid to, 89 106
failure of to execute bond as required by Auditor General cause for removal, 93 109
failure of to make proper entry and return of taxes received, penalty for, 116.. 124
funds receivable by for delinquent taxes, 70 87

COUNTY TREASURER—*Continued:* Page
land unsold by reason of failure to offer treated as bid to State, 68 85
may direct appeal from circuit court to supreme court, 67 83
may disregard bid for delinquent tax land, when, 70 86
may receive taxes after returned by township treasurer, 58 71
may require immediate payment of purchaser of delinquent tax land, 70 72
monthly statement of Auditor General to, of taxes paid State Treasurer and lands bid to State sold, 88 108
payment of amount of decree appealed from to, 67 82
payment of redemption to, 74 98
payment of taxes to by person having part interest, 53 65
payment of taxes to, when, 53 71
prosecuting attorney shall advise without charge, 100 117
refusal or neglect of to file bond to Auditor General, 94 110
register of deeds shall require certificate of, or of Auditor General, before filing or recording certain instruments of conveyance, 135 ..... 133, 134
re-offer by, of parcels of delinquent tax lands unsold, 70 86
report of sale, to Auditor General, what to contain, 70 87
report of sale, to clerk of court, when and how made, 70 87
sale of delinquent tax lands under decree, 70 85-87
shall bid delinquent tax land to State, when, 70 86
shall certify to correctness of statement of delinquent taxes returned by township treasurer, 55 68
shall charge taxes to township, when, 95 110
shall compare statement of delinquent taxes with tax roll, 55 68
shall credit townships with taxes reported by Commissioner of State Land Office as paid, 103 118
shall declare bid for delinquent tax land canceled, when, 70 86
shall distribute and post order and petition, when, 64 76
shall endorse settlement on bond of township treasurer, 56 69
shall enter in Tax Record, interest sold, name and address of purchaser of delinquent tax land, 70 86
shall enter in Tax Record redemption certificate, 74 99
shall examine notices published, 66 76
shall execute bond to Auditor General for State money, 93 109
shall expose each parcel in decree separately, 70 86
shall file affidavit of posting and distribution of order and petition, 64 76
shall file report of sale of delinquent tax land with county clerk, when, 70 ..... 86, 87
shall file statement of delinquent taxes, 55 68
shall forward to Auditor General transcript of lands returned delinquent, when, 57 70
shall furnish copies of records, etc., as required by Auditor General, 123 126
shall furnish supervisors with lists of part paid and licensed homestead lands, when, 92 109
shall furnish township clerk with tax laws, 121 125
shall give purchaser certificate of sale of delinquent tax lands, 71 91
shall give township treasurer statement of delinquent taxes returned, and unpaid taxes on personal property, 55 68
shall give township treasurer statement of personal taxes uncollected, with warrant for collection, 56 70
shall give township treasurer statement of taxes rejected, 55 68
shall issue and record certificates of sale of State tax lands, 81 102
shall issue duplicate receipts for taxes received, 58 71
shall issue redemption certificates in duplicate, 74 98
shall make detailed statement to township and city treasurers, (except in Kent) 87 106
shall make entry of payment of taxes to State and of sales of land bid to State, 88 108
shall make quarterly statement of accounts between county and townships and render to township treasurers, 87 106
shall make quarterly statement to townships and cities of local taxes collected, 87 106
shall make return to Commissioner of State Land Office of taxes paid on homestead and part paid State lands, when, 102 118
shall make transcript of lands returned delinquent, 57 70
shall not pay or credit delinquent city and village taxes until received, 107 120
shall note on Tax Record sales made by Auditor General, 88 108
shall notify supervisors of abandoned lands deeded to State, 130 130
shall notify township clerks of statements and payments to township treasurers, 87 106
shall offer State tax lands at annual tax sales, 78 101
shall pay money collected for State tax to State on Jan. 15 and every 30 days thereafter until settlement for March quarter, 87 106
shall pay money due State quarterly, 87 106
shall pay money due townships to township treasurers quarterly, 87 106
shall present statement of rejected taxes to board of supervisors, 96 111
shall receipt for, file and keep bond of township treasurer, 43 55
shall receipt to township treasurer for money paid over, 55 68
shall record township treasurers' returns of delinquent taxes, 57 70
shall refuse bid for State tax lands, when, 80 101
shall reject tax on lands erroneously assessed, when, 55 68
shall report sales of delinquent tax lands to Auditor General, when, 70 87
shall re-sell delinquent lands, when, 70 86

Page

COUNTY TREASURER—*Continued:*
shall return to Auditor General transcript of lands returned delinquent for 1891 and 1892, 123 ... 126
shall select place for sale of lands for taxes, 70 ... 86
shall sell delinquent tax lands to whom, 70 ... 86
shall sell no greater interest in delinquent tax lands than sufficient to pay taxes, etc., 70 ... 86
shall serve on supervisor list of lands deeded to State, 130 ... 130
shall serve on supervisor list of homestead lands deeded, 133 ... 133
showing made to satisfaction of, on redemption, 74 ... 98
statement and settlement of account by Auditor General, 87 ... 106
to approve bond of township treasurer for State and county taxes, 43 ... 55
township clerk shall notify of appointment of township treasurer, 50 ... 64
township treasurer to pay State and county taxes to, when, 42, 54 ... 54, 67
when shall commence sale of delinquent tax lands, 70 ... 85

COUNTY TREASURER'S WARRANT:
to township treasurer for collection of delinquent taxes on personal property, 56 ... 70

COURTS:
shall not hold tax invalid for irregularity in any proceeding which does not prejudice property rights of person taxed, 99 ... 113
See "Circuit Court," "Supreme Court."

CREDITORS:
statement of amount due each, 19 ... 30
statement of residence of, 19 ... 30

CREDITS:
deduction of indebtedness from, 19 ... 30
sworn statement of, 19 ... 30
taxable, when, 8 ... 16

DATES:
when general tax law and amendments took effect ... 5, 6

DECEASED PERSON:
executor or administrator may assign certificate of sale, 101 ... 118
personal property of, how assessed, 14 ... 22, 23
real property of, how assessed, 3 ... 11
tax deed to, 101 ... 117, 118
See "Administrator," "Executor."

DECREE:
annuling certificate of sale certified copy of, 75 ... 99
annuling certificate of sale, subject of record, 75 ... 99
for value of improvements made by dispossessed purchaser, 73 ... 96
See "Courts," "Decree of Sale."

DECREE OF SALE:
appeal from, when allowed, 67 ... 83
form of, 67 ... 82
petition of Auditor General for, 61 ... 72
shall be considered a several decree, 66 ... 78
shall be entered in chancery record, 67 ... 81
when made, 66, 67 ... 77, 83

DEEDS:
Auditor General may issue on request, in place of deed issued by county treasurer, 124 ... 126
certain excepted from provisions of Section 135, 135 ... 134
certificate of payment of taxes required before filing or recording certain, 135 ... 133, 134
fee for second, 83 ... 102
for delinquent tax lands, Auditor General shall issue, when, 70, 72 ... 87, 91
for State tax lands, Auditor General shall issue, 82 ... 102
for State tax lands, convey what, 84 ... 103
for State tax lands, effect of, 82 ... 102
issued on affidavit of loss of certificate, when, 72, 83 ... 92, 102
made by Auditor General, entitled to record, 72 ... 91
no annulment of after five years' possession, 73 ... 86
of abandoned State tax lands to State, by Auditor General, 127 ... 128
of abandoned State tax lands to State, by Auditor General, recording of, 128 ... 129
purchaser of State tax lands shall receive, 84 ... 103
second issue of, by Auditor General, when, 83 ... 102
second of same effect as first, 83 ... 102
second shall recite loss, etc., of first, 83 ... 102
shall be evidence in contest of title, 77, 86 ... 100, 105
shall convey absolute title to delinquent tax lands, 72 ... 91
to homesteader for abandoned State tax land deeded State, 131 ... 131
to State to discharge levy, 47 ... 60
See "Quit Claim Deeds," "Tax Deeds," "Title."

DEFAULT:
of county officers, losses by, chargeable to county, 91, 95 ... 109, 110
of State officers, losses by chargeable to State, 91 ... 109
of township officers, losses by chargeable to township, 91, 95 ... 109, 110

DEFECTIVE RECORDS OR PROCEEDINGS:
board of supervisors may cause to be corrected, 37 ... 47
board of supervisors may refer to prosecuting attorney, 37 ... 47
shall not affect validity of tax, etc., provided, etc., 99 ... 113

DELINQUENT TAXES:
all proceedings relative to, to be under this act, 124 ... 126
charter provisions relative to, to govern in cities and villages, when, 107 ... 120

DELINQUENT TAXES—*Continued:* Page

cities and villages may provide for return of on real property to county treasurer, 108 ... 122
county treasurer may receive payment of, 58 ... 71
county treasurer shall forward to Auditor General certified transcript of, 57 ... 70
county treasurer shall make transcript of township treasurer's return of, 57 ... 70
duties of Auditor General relative to returns and records of, for 1891 and 1892, 123 ... 126
expense of return of to county treasurer paid by townships, 90 ... 106
lands returned for subject to sale, etc., when, 60 ... 71
may be paid by county treasurer or State treasurer before day of sale, 106 ... 119
no sale for while held invalid, 67 ... 83
of 1891 and 1892, return of to Auditor General, 123 ... 126
part payment of shall not stay proceedings as to part unpaid, 106 ... 119
petition for decree of sale for, 61 ... 72
return of by township treasurer to county treasurer, 55 ... 68
See "Delinquent Tax Lands."

DELINQUENT TAX LANDS:
action of ejectment or trespass on, 86 ... 106
cities and villages may provide for judicial sale of, when, 108 ... 122
county treasurer shall give certificate of sale of, 71 ... 91
county treasurer shall report sale of to Auditor General when confirmed, 70 ... 87
county treasurer shall report sale of to county clerk, 70 ... 86, 87
disposition of proceeds of sale of, 70 ... 87
injunction for waste on, 115 ... 123
loss of certificate by purchaser of, 72 ... 92
objection to sale of, limit, 70 ... 87
purchase money for, refunded by Auditor General, when, 98 ... 112
purchaser of entitled to deed, when, 70 ... 87
purchaser of may recover for improvements on, when, 73 ... 96
purchaser of must purchase same description of State tax land, 70 ... 86
purchaser of shall be given certificate of sale, 70 ... 86
redemption of, 74 ... 96
sale of, 70, 71, 72, 73 ... 85-7 91, 96
sale of, confirmed, when, 70 ... 87
sale of, to be at county seat, 70 ... 86
setting aside sale of, 70 ... 87
subject to subsequent taxes, 70 ... 87
See "Delinquent Taxes," "State Tax Lands."

DEMAND FOR TAXES:
by mail, amount of tax and place of payment shall be stated, 46 ... 58
collector in cities shall comply with charter provisions relative to, 46 ... 58
how made on corporations, and where, 46 ... 57, 58
on bank stock, how made, 46 ... 58
township treasurer may make by mail, when, how, 46 ... 58
township treasurer shall make personal, when, 46 ... 57, 58

DEPOSITS:
deduction of, in assessment of unincorporated banks, 19 ... 28
statement of, by bankers, 19 ... 28
statement of, by others, 19 ... 30

DEPOT GROUNDS:
See "Railroads."

DEPUTIES:
officers appointing responsible for acts of, 109 ... 122
shall have same authority as possessed by principal, 109 ... 122

DEPUTY AUDITOR GENERAL:
See "Auditor General," "Deputies."

DEPUTY COUNTY TREASURER:
bond of county treasurer to include, 93 ... 109
See "Deputies."

DEPUTY TOWNSHIP TREASURER:
bondsmen of township treasurer liable for acts of, 111 ... 122
consent of bondsmen necessary to appointment of, 111 ... 122
powers and duties of, 111 ... 122
shall be paid by township treasurer, 111 ... 122
See "Deputies."

DESCRIPTION:
when erroneous taxes to be charged back, 73 ... 96
See "Lands."

DEVISEES:
assessment of real property to, 3 ... 11

DIAMONDS:
statement of, 19 ... 30

DISABILITY:
of township treasurer, township board shall appoint new treasurer, 50 ... 64

DISTRESS AND SALE:
adverse claim for surplus, 49 ... 64
balance of proceeds, disposition of, 47 ... 60
collector's fees for, 48 ... 63
levy of tax by, 42 ... 54
notice of sale, 47 ... 59
sale for fees, 48 ... 63

DISTRIBUTION OF ESTATE:
notice of, 3, 14 ... 11, 23

	Page
DOCK YARD:	
assessment of forest products in, 14	22, 23
personal property of non-resident in, 14	22, 23
DOCKS:	
assessment of forest products on, 14	22, 23
owned by marine companies, 19	29
DOGS:	
statement of, 19	31
to be designated on assessment roll, 26 (Superseded)	37
DOMESTIC ANIMALS:	
statement of, 19	30
See "Cattle," "Dogs," "Horses," "Live Stock," "Mules," "Sheep," "Swine."	
DRAIN TAX:	
board of supervisors shall direct spread upon roll, 37	47
board of supervisors shall examine relative to, 37	47
township clerk shall furnish supervisor statement of money to be raised by, 36	43
DUPLICATE RECEIPTS:	
county clerk shall forward to Auditor General, when, 58	71
county treasurer shall issue and county clerk countersign, etc., 58	71
See "Receipt."	
DUPLICATE REDEMPTION CERTIFICATES:	
to be forwarded to Auditor General, 74	98
"See "Redemption Certificate."	
EDUCATIONAL INSTITUTIONS:	
personal property of exempt, when, 9	18
real property of exempt, when, 7	12
EFFECTS:	
situate without State taxable, when, 8	16
taxable as personal property, 8	16
EJECTMENT:	
action of against homesteader, limitation and conditions, 131	131, 132
Auditor General may be defendant in action of, 86	105
State to defend when brought against homesteader, 131	132
ELECTRIC LIGHT COMPANIES:	
personal property of, 8	17
See "Corporations."	
ELECTRIC RAILROAD COMPANIES:	
personal property of, 8	17
See "Corporations."	
ELEVATORS:	
statement of, and of contents, 19	31
EQUALIZATION:	
by board of supervisors, 34	41
certificate of, 34	41
record of, 34	41
signing certificate of, 34	41
ERROR:	
See "Default," "Loss."	
ESTATE:	
of deceased persons, assessment of, 3	11
of deceased person, notice of division of, 3	11
See "Administrator," "Devisee," "Executor," "Incompetent Persons."	
EVIDENCE:	
admissibility of in hearing of petition for decree of sale against delinquent tax land, circuit court shall decide, 66	77
in contest of title, deeds, etc., shall be, 77, 86	100, 105
in suit for recovery of tax on personal property, tax roll shall be, 47	60
of title, tax deed shall be, 72	91
on hearing of petition for decree of sale of delinquent tax land shall be taken in open court, 66	77
receipt for tax shall be, 53	66
records, statements and certificates provided for in act shall be, 99	114
shall be written down and filed, when, 66	77
statement of property may be used as, when, 20	31
township treasurer's statement of personal property removed shall be, 48	53
EXECUTION UPON JUDGMENT:	
collection of, 48	63
for improvements on tax lands, 73	96
for taxes, no property exempt from, 48	64
See "Judgment."	
EXECUTOR:	
assessment to, of personal property, 14	22, 23
may take reconveyance from purchaser for taxes, 141	139
may be treated as owner of real property, 3	11
notice to of purchase for taxes, 140	138
statement of money or personal property held as, 19	31
See "Administrator."	
EXEMPTIONS:	
by reason of payment of specific tax, 11	21
of personal property, 9	18, 19
of real property, 7	12, 13
tax imposed in disregard of, illegal, 76	100
See "Personal Property," "Real Property."	

	Page
EXPENSE:	
incurred by county officers under this act shall be paid by county, 90	108
made by State officers, audited by Auditor General and paid out of general fund, 90	108
of advertising, paid from proceeds of sale on warrant of Auditor General, 70	87
of examination of officers of corporations, 19	29
of levy to be paid by State in case land taxed is deeded State, 47	60
of publication of tax laws, shall be audited and allowed by Board of State Auditors, 121	125
of State officers under this act paid by State, 90	108
relative to abandoned State tax land deeded State to be audited by Board of State Auditors, 134	133
relative to abandoned State tax land paid out of general fund, 134	133
See "Expenses."	
EXPENSES:	
lien on lands for, when attaches, 59, 89	71, 108
payable with taxes, 59, 89, 133	71, 108, 136
shall be included in petition of Auditor General for decree, 61	73
See "Expense."	
EXTENSION OF TIME:	
for return of delinquent taxes to Auditor General, 57	70
FAMILY PICTURES:	
exempt, 9	19
FARM:	
personal property of non-resident on, 14	22
FEES:	
for certified copy of decree, etc., 75	90
for deed to replace loss, 83	102
of register of deeds for recording deeds on abandoned State tax lands deeded State, 128	129
See "Collection Fee."	
FIRE COMPANIES:	
engines and implements of, exempt, 9	19
FIRE ENGINES:	
See "Fire Companies."	
FIRM:	
statement of taxable property of, 18	26
FIXTURES:	
on buildings are real property, 2	19
FOREIGN CORPORATIONS:	
shares in taxable, 8	16
See "Corporations."	
FOREST PRODUCTS:	
assessment of, 14, 15	23, 25
cutting and removal from State tax lands unlawful, 113	122
distinctive marks on, 19	30
in transit, to place within State, where assessed, 14, 15	23, 25
in transit, to place without the State, where and to whom assessed, 14	23
seizure and sale of when removed from State tax lands, 113	122
statement of, 19	30
statement of place of destination, 19	30
See "Logs," "Lumber," etc.	
FORMS:	
Auditor General shall furnish to county clerks and county treasurers at expense of State as made necessary by act, 122	125
of companies' statement, 19	28
of endorsement of assessment roll, 30	39
of final decree of sale, 67	82
of general statement of taxable property, 19	27, 31
of "no taxable property" oath, 18	26
of notice by purchaser of tax title, 140	137
of oath to statement of taxable property, 18	26
of order of circuit judge on filing of petition of Auditor General for decree of sale, 62	74
of pawnbroker's statement, 19	28
of statements of bankers and brokers, 19	27, 28
of statements of vessel and marine property, 19	29, 30
See "Blanks."	
FRANCHISES:	
of marine companies, 19	29
FUEL:	
limit of exemption, 9	19
FUNDS:	
deductions from, 19	27
receivable at tax sales, 70	87
statement of, 19	27
township treasurer shall keep distinct, 52	65
FURNITURE:	
in churches exempt, 7	13
See "Household Furniture."	
GAS COMPANIES:	
personal property of, 8	17

	Page
GENERAL FUND:	
of county, collection fee paid county treasurer shall belong to, 89	108
of State, collection fee paid Auditor General shall belong to, 89	108
of State, cost of advertising paid from, 65	76
of State, compensation and expense of, levy to be paid from in certain cases, 47	60
of State, expenses incurred relative to abandoned tax land deeded State paid from, 134	133
of State, expenses made by State officers paid out of, 90	108
of State, fee for second deed belongs to, 83	102
of State, net proceeds of tax sales placed to credit of, 70	87
of State, moneys received by Commissioner of State Land Office for abandoned lands deeded State credited to, 134	133
of State, refunding from for sales set aside, 73	96
GOLD PLATE:	
statement of, 19	30
GOODS:	
all taxable as personal property, 8	16
situated without State taxable, 8	16
statement of, both exempt and taxable, 19	30
GRAIN:	
in elevators, statement of, 19	30
personal property, 8	17
GRAND ARMY OF THE REPUBLIC:	
personal property of posts of, exempt, 9	18
GRANTEES:	
under last recorded deed, rights of under Sec. 140 e. s., 141	139
GUARDIAN:	
assessment to, 14, 24	22, 33
may take reconveyance from purchaser for taxes, 141	139
notice to of purchase for taxes, 140	138
statement of money or personal property held, as, 19	31
when may be treated as owner of real property, 3	11
HEIRS:	
assessment of real property to, 3	11
may take reconveyance from purchaser for taxes, 141	139
See "Deceased Persons," "Estate."	
HIGHWAY TAX:	
board of supervisors shall direct spread upon roll, 37	47
board of supervisors to examine relative to, 37	47
to be in separate column on roll, 39	51
township clerk to furnish supervisor statement of moneys to be raised by, 36	43
township treasurer shall retain, to be paid out on order of highway commissioner, when, 52	65
HOMES:	
See "Charitable Homes."	
HOMESTEAD LANDS:	
Commissioner of State Land Office shall furnish Auditor General and county treasurer statement of taxes paid on, when, 103	118
Commissioner of State Land Office shall furnish county treasurer list of certain, 92	109
county treasurer shall furnish supervisor list of certain, 92	109
holder of interest in shall pay taxes to State Treasurer, when, 102	118
interest on taxes on, 102	118
no patent for made until taxes paid, 102	118
return to Commissioner of State Land Office of taxes paid on, 102	118
subject to sale and redemption for taxes, when, 102	118
when assessable, 4, 7	12
See "Abandoned Lands Deeded State."	
HORSES:	
one year old and under, exempt, 9	19
HOUSEHOLD FURNITURE:	
limit of exemption of, 9	19
HOUSEHOLDER:	
personal property of, used in business, limit of exemption, 9	19
HOUSES OF PUBLIC WORSHIP:	
exempt, 7	13
HYDRAULIC COMPANIES:	
personal property of, 8	17
See "Corporations."	
IDIOTS:	
cancelation of sale of lands of, when, 69	85
lands of withheld from sale, when, 69	85
See "Incompetent Persons."	
ILLEGAL TAXES:	
proceeds of sales for, refunded by Auditor General, when, 98	112
suit for recovery of, 53	65
what so held, 76	100
IMPLEMENTS:	
for extinguishing fire, exempt, when, 9	19
See "Farm Implements," "Mechanic," "Mechanical Implements."	
IMPROVEMENTS:	
on abandoned lands deeded to State, assessable as personal property, 122	133
on delinquent tax lands, purchaser to recover for, when, 73	96
on leased lands, taxable as personal property, when, 8	17
purchaser of State tax lands entitled to recover for, if dispossessed, 104	118

	Page
INCOMPETENT PERSONS:	
cancelation of sale of lands of, when, 69	85
court may withhold land of from sale, when, 69	85
notice of purchase for taxes to trustee, etc., 140	139
personal property of, how assessed, 14	12
INDEBTEDNESS:	
certain, of corporations, 19	28
conditions for deductions from credits, 19	28, 30
deduction for, when, 8, 9, 19	16, 19, 28, 30
statement of, 19	30
upon vessels, 19	29
See "Credits."	
INDIANS NOT CITIZENS:	
property of exempt, 9	19
INFANTS:	
cancelation of sale of lands of, when, 69	85
lands of, withheld from sale, when, 69	85
See "Incompetent Persons," "Minor Heirs."	
INFORMALITY:	
in assessment, etc., shal not invalidate tax, 99	112
INJUNCTION:	
none shall issue to stay proceedings for assessment or collection of taxes, 114	122
to restrain waste, holder of certificate of sale entitled to, 115	122
See "Courts."	
INSANE PERSONS:	
cancelation of sale of land of, when, 69	85
land of withheld from sale, when, 69	85
See "Incompetent Persons."	
INSURANCE COMPANIES:	
exception of, 19	28
what property of taxable, 11	21
INSURANCE RATE:	
of vessels, 19	29
INTEREST:	
in lands, how assessed, 6	12
in lands, no greater sold than sufficient, 70	86
in part paid State lands, personal property, how assessed, 4	12
of individuals in State or United States lands, 8	16
"See "Interest on Taxes."	
INTEREST ON TAXES:	
amount of, entered on Tax Record, 61	73
computation of in petition for decree, 61	73
computed from March 1st after assessed, 59	71
loss of when taxes of 1890 or prior years are paid under Sec. 138 to be borne proportionately, 138	135
on delinquent tax lands continues a lien until paid, 70	86
on purchase money of tax sales, refunded when, 98	113
on redemption, 74	98
on State tax lands, 78, 84	101, 103
paid State, county and township in proportion to rights, 89	108
rate of, 59, 89	71, 80
See "Collection of Taxes," "Delinquent Taxes," "State Tax Lands."	
INVALID TAXES:	
so held, when, 99	113
INVESTMENTS:	
in another State, not taxable when permanent, 8	16
IRREGULARITIES:	
in assessment, etc., shall not invalidate tax, 99	113
JEWELRY:	
statement of, 19	30
JOINT ASSESSMENT:	
to heirs or devisees, 3	11
JOINT TENANTS:	
See "Tenants in Common."	
JUDGE OF PROBATE:	
to approve bond of county treasurer to Auditor General, 93	109
JUDGMENT:	
certified copy of, 75	99
for improvements on tax lands, 73	96
See "Execution," "Courts."	
JUDICIAL SALE:	
for taxes, cities may provide for, 108	121
See "Tax Sale."	
JURISDICTION:	
of circuit court in matter of petition for sale, 66	70
taxes imposed without, illegal, 76	100
taxes imposed without, provision relative to, 98	113
"See "Cricuit Court," "Courts."	
LAND CONTRACTS:	
certificate of payment of taxes required before filing or recording, 135	133, 134
for abandoned lands deeded State, 122	133
LAND PATENTS:	
provision relative to recording, 135	134

	Page
LANDS:	
adjoining, assessed together, when, 25	25
bid to State in contravention of law, provision relative to, 139	136
bid to State, taxable, 70	86
contiguous, when to be assessed as one parcel, 24	33
deeded to State to discharge levy for taxes, 47	60
court may separate, when, 66	77
erroneous or defective description of, 55	69
how described on assessment roll, 25	35
may be described as known, 25	36
of railroad companies not adjoining tracks, assessable, 7	13
owned by counties, municipalities and school districts, exempt, when, 7	12
possession by writ of assistance, 72, 137, 140	92, 135, 137, 139
reconveyance of under Sec. 140, 140, 141	137-9
redemption of from sale, 74	93
returned under prior laws, provision for sale, 138	135
sale of for tax liens, when, 60	72
subject to taxation, unless expressly exempted, 2	10
tax deed conveys absolute title to, 72	91
undivided interest in, how assessed, 6	12
used for public parks, exempt, when, 7	13
See "Abandoned Lands Deeded State," "Homestead Lands," "Part Paid State Lands," "Real Property," "State Tax Lands."	
LATH:	
where assessable, 15	25
LEASED LANDS:	
buildings on, taxable as personal property, when, 8	17
LEVY:	
release of on deeding to State lands, 47	60
See "Seizure and Sale."	
LEVY OF TAXES:	
presumed legal, 99	114
See "Assessment."	
LIABILITY:	
for false statement in affidavit filed with Auditor General, 72	92
of purchaser of delinquent tax lands for other taxes, 70	86, 87
of register of deeds for instrument recorded in violation of provisions of Section 135, 135	134
of sureties on county treasurer's bond, for deputy, etc., 93	109
of sureties on township treasurer's bond, for deputy, etc., 111	122
of sureties on township treasurer's bond, for incorrect returns, 56, 112	69, 122
LIBRARIES:	
real property of, exempt, when, 7	12
LIBRARY:	
of individual or family, exempt, 9	19
LIBRARY ASSOCIATIONS:	
personal property of, exempt, when, 9	18
LICENSED HOMESTEAD LANDS:	
See "Abandoned Land Deeded State," "Homestead Lands."	
LIEN:	
for expenses on delinquent laws, 59	71
for improvements on lands dispossessed of, 104	118
for taxes not prejudiced by withholding from sale by court, 69	85
on delinquent tax lands, right of State to enforce, 60	72
on personal property, taxes take precedence of all others, 40	53
payment of decree discharges, 67	83
taxes and charges constitute, 40	53
LIVE STOCK:	
under certain ages exempt, 9	19
where and to whom assessed, 14	22
See "Domestic Animals."	
LOCAL IMPROVEMENTS:	
real property of railroad companies subject to assessment for, 7	13
LOCATION:	
of personal property, change of, 17	26
to be considered in assessment, 27	37
See "Assessment," "Personal Property."	
LOGS:	
cutting and removal from State tax land unlawful, 113	122
seizure and sale of when removed from State tax land, 113	122
statement of, 19	30
supervisor to ascertain amount of, 16	25
where assessable, 14, 15	23, 25
See "Forest Products."	
LOSS:	
by default of county officers in discharge of duties chargeable to county, 91	109
by default of State officers in discharge of duties chargeable to State, 91	109
by default of township officers in discharge of duties chargeable to township, 91	109
See "Interest," "Taxes."	
LOTS:	
acreage of certain, not specified, 24	33
contiguous, when to be assessed as one parcel, 24	33
description of on assessment roll, 25	35
See "Lands."	

LUMBER: Page
statement of, 19 30
where assessable, 15 25
See "Forest Products."
MACHINE SHOP:
See "Railroad Companies."
MACHINERY:
statement of, 19 30
See "Mechanical Implements and Tools."
MAINS:
of lighting and water companies, 8 17
MANUFACTORY:
personal property of non-resident in, 14 22, 23
MARINE PROPERTY:
statement of, 19 29
See "Boats," "Maritime Commerce," "Ships."
MARITIME COMMERCE:
personal property of certain corporations engaged in, where assessed, 11 21
MARKET VALUE:
of stock statement of, 19 28
MECHANIC:
working tools of, limit of exemption, 9 19
MECHANICAL IMPLEMENTS AND TOOLS:
statement of, 19 30
See "Mechanic."
MERCHANDISE:
statement of, 19 30
MILITARY ORGANIZATIONS:
armories belong to exempt, when, 7 13
MILL:
assessment of forest products in, 14 23
personal property of non-resident in, 14 22, 23
MINERALS:
value of to be considered in assessment, 27 37
MINES:
personal property of non-resident in, 14 22
value to be considered in assessment of real property, 27 37
MINOR HEIRS:
cancelation of sale of lands of, when, 69 95
lands of withheld from sale, when, 69 95
MINORS:
See "Incompetent Persons," "Minor Heirs."
MISDEMEANOR:
failure to make entry and return of tax paid, 117 134
violation of Section 135 by register of deeds, 135 134
wilful misstatement with intent or effect to evade taxation, 120 125
wilful neglect or refusal, etc., 21, 120 32, 125
wilfully erroneous assessment or review, 116 124
See "Penalty."
MONEYS:
advanced by pawnbroker, 19 28
deduction from, 19 28
held in trust, statement of, 19 31
paid before appeal from decree of sale, credit of when tax held valid, 67 83
paid Auditor General as required before suit to set aside determination as to abandoned State tax land or homestead entry, disposition of, 127, 131 128, 132
paid county treasurer by township treasurer, receipt for, 55 68
received at tax sales, disposition of, 70 87
received by Commissioner of State Land Office for lands homesteaded, paid State Treasurer, 134 132, 133
received for tax homestead lands sold to be credited to State, county and township in proportion to taxes of each, 131 132
statement of, 19 27, 30, 31
taxable, 8 16
to be raised in townships by taxation, statement of, township clerk shall make and deliver to supervisor, supervisor shall deliver to county clerk, county clerk shall lay before board of supervisors, 36 43
what assessable to bankers, etc., 19 27, 28
MONUMENT GROUNDS:
exempt, 7 13
MORTGAGEE:
rights of under Sec. 140 e. s., 141 139
MORTGAGES:
not discharged by tax title reconveyed under Sec. 140, when, 141 139
statement of credits secured by on lands in other states, 19 30
MULES:
under one year old exempt, 9 19
MUNICIPAL CORPORATIONS:
real property of exempt, when, 7 12
See "Cities," "Villages."
NATIONAL BANKS:
shares in exempt, 8 16
NATURAL GAS COMPANIES:
personal property of, 8 17

	Page
NAVIGATION COMPANIES:	
personal property of certain, where assessed, 11	21
statement by officers of, 19	29
See "Marine Property."	
NEGLECT:	
See "Wilful Neglect or Refusal."	
NEWSPAPERS:	
designation, limitations, 63	75
directions for publishing order and petition in, 66	76
proprietor shall furnish Auditor General and county treasurer copies containing order and petition, 66	76
publication of order and petition in, 63	75
publication of subsequent sale in, 70	87
publisher to accept designation, when, 63	75
publishing order and petition, Auditor General shall designate, when, 63	75
See "Advertising," "Publication."	
NON-RESIDENT OWNER:	
certain forest product belonging to, how assessed, 14	23
personal property of, where assessable, 14	22, 23
NOTICE:	
from purchaser of tax title to certain parties, form of, 140	137
from purchaser of tax title to certain parties, how served, 140	137, 138
of appeal to Supreme Court from decree of sale, 67	83
of distribution of estates, 14	23
of proceedings for sale of lands, 66	76
of time and place of review of assessment rolls by State Tax Commissioners, 152-3	144, 145
of sale of personal property seized for taxes, 47	59
of sale of State tax land, Auditor General shall cause published, 79	101
personal, publication of order and petition equivalent to, 66	76
to county treasurer of redemptions at office of Auditor General, 74	99
to delinquent taxpayers, board of supervisors may authorize, 58	71
to prosecuting attorney, of contest, 66	77
See "Publication," "Statements."	
NURSERY STOCK:	
assessable as personal property, 8	17
OATH:	
form of to sworn statements, 18	26, 27
member of board of review may administer, 30	39
See "Affidavit," "Oath of Office," "Sworn Statement."	
OATH OF OFFICE:	
members of board of review appointed in cities shall take, 107	120
members of board of review shall take, 28	38
members and secretary of Board of State Tax Commissioners shall take, 147	141
OCCUPANT:	
of real property, assessment to, 3	11
of real property of corporations, assessment to, 5	12
when name of to be entered on assessment roll, 24	33
OFFICE:	
of corporations, 11	21
of marine companies, 11, 19	21, 29
personal property of non-resident in, 14	23
OFFICERS:	
compensation of, 90	108
failure to enter and return taxes received by, penalty for, 117	124
in cities, common council to determine compensation of, 110	122
of bank, statement by, 19	27, 28
of companies and corporations, statement by, 19	28, 29
of county, board of supervisors shall determine compensation of for certain services, 110	122
refusal of to make report, 19	29
responsible for acts of deputies, 109	122
wilful neglect of duties by, penalty for, 119	124
See "City Officers," "County Officers," "State Officers," "Township Officers."	
ONE MILL TAX:	
to be in column with school taxes on roll, 39	51
ORDER AND PETITION:	
affidavit of publication, etc., 66	76
Auditor General shall cause to be printed and circulated, 64	75, 76
Auditor General shall cause to be published, 66	76
printing and distribution of in certain cases, 64	76
publication of, 63, 66	75, 76
publication of, equivalent to personal service, 66	76
See "Circuit Court," "Delinquent Taxes."	
ORDINANCE:	
cities or villages may make, providing for return to county treasurer of unpaid taxes on real property, 108	121
See "Charter."	
OWNER:	
assessment of certain interests in lands to, 6	12
name of to be entered on assessment roll, 24	33
notice to of review of assessment by State Tax Commissioners, 152	144
of marine property, statement by, 19	29
of property liable to taxation, required to make statement thereof, 18, 19	26

OWNER—*Continued:* Page
of real property, assessment to, 3 11
omission of name shall not invalidate tax, 99 113
personal property assessed to where inhabitant on second Monday in April, 13 22
refusal of to make statement of property, 19 29
who may be treated as, 3 11
See "Non-resident Owner," "Owner Unknown," "Personal Property," "Real Property."
OWNER UNKNOWN:
assessment of real property as, 24 33
PARKS:
exempt, when, 7 13
PARSONAGES:
exempt, when, 7 13
PART PAID STATE LANDS:
Auditor General shall credit county with taxes reported by Commissioner of State Land Office as paid, 103 118
Commissioner of State Land Office shall furnish Auditor General and county treasurer a statement of taxes paid on, when, 103 118
Commissioner of State Land Office shall furnish county treasurer lists of, 92 109
county treasurer shall furnish supervisors list of, 92 109
interest in, how assessed, 4 12
interest on taxes on, 102 118
no patent for until taxes paid, 102 118
return to Commissioner of State Land Office of taxes on paid county treasurer, 103 118
subject to sale and redemption for taxes, 102 118
See "Abandoned Lands Deeded State."
PARTNER:
See "Copartnership."
PATENT:
lands subject to assessable, 4 12
none shall be made for any State lands until taxes paid, 102 118
provision relative to recording, 125 134
PATENT RIGHTS:
statement of, 19 30
PAWNBROKER:
personal property in possession of, 19 28
statement by, 19 28
what personal property assessable to, 19 28
PAYMENT:
by Auditor General of money due counties, 87 106
by county treasurer of money due State, 87 106
by county treasurer of money due as proceeds of tax sales, 70, 87 87, 106
by county treasurer of money due townships, 87 106
by township treasurer of State and county tax collected, 42 54
failure to make, evidence of abandonment in certain cases, 127 127
for abandoned State tax lands deeded State, 131 130
for delinquent lands purchased at tax sale, 70 86
for State tax lands, 84 103
of amount decreed on appeal, 67 83
of bid for delinquent tax lands, 70 86
of city or village taxes returned to county treasurer, municipality not entitled to until received, 107 120
of collection fee with taxes, 89 108
of compensation and expenses of levy when land is deeded to State, 47 60
of cost of advertising order and petition, 65, 70 76, 87
of cost of tax sales, how made, 70 87
of disputed tax to be made before appeal allowed, 67 83
of fee for second deed, 83 102
of part of taxes assessed, 53 65
of part of taxes assessed shall not stay proceedings as to remainder, 106 119
of part of taxes assessed, receipt shall show part unpaid, 53 65
of purchase money at sale of State tax lands, 81 102
of redemption to Auditor General or county treasurer, 74 98
of surplus from sale of personal property seized, 49 64
of taxes by tenant, 53 66
of taxes collected by township treasurer, to county treasurer, when, 54 67
of taxes a condition precedent to suit to set aside determination or to recover lands homesteaded, 127, 131 128, 131
of taxes, demand for, 46 57
of taxes of 1890 and prior years, provision relative to, 138 135
of taxes on forest products belonging to non-resident and in transit to place without the State, lien for, 14 24
of taxes on part of description of lands assessed, 53, 59 65, 71
of taxes on undivided share of real property, 53, 59 65, 71
of taxes to county treasurer after return and before sale, 106 119
of taxes to State treasurer after return and before day of sale, 106 119
of taxes to State Treasurer, Auditor General shall transmit list of to county treasurer, 88 108
of taxes to State Treasurer, on homestead or part paid State lands, 102 98
of taxes, to whom made, 58, 59, 106 71, 119
of taxes under protest, 53 65

	Page
PENALTY:	
for failure to make proper entry and return of taxes received, 117	124
for failure to pay amount of bid, 70, 79	86, 101
for fraudulent affidavit filed in the office of Auditor General, 73	92
for illegitimate use of sworn statement, 23	32
for refusal to respond to subpœna of State Tax Commissioners, 148	142
for violations of Section 135, 135	124
for wilful false swearing, 118	124
for wilful neglect of duties, 119	124
for wilful neglect or refusal to make and deliver sworn statement, 21	33
for wilfully erroneous assessment, 116	124
PENSIONS RECEIVABLE:	
exempt, 9	19
PERJURY:	
wilful false swearing in proceedings under this act subjects to penalty for, 72, 118	92, 124
PERSONAL PROPERTY:	
assessment of in certain cases, 22	33
belonging to vessels, 19	29
change of location or sale of, 17	26
county treasurer's warrant to township treasurer for collection of delinquent taxes on, 56	70
definition of, 8	16, 17
exemptions of, 9	18, 19
how described on assessment roll, 26	37
improvements on abandoned State tax lands deeded State, assessable to homesteader as, 132	133
mortgaged or pledged, assessment of, 14, 19	23, 28
of all companies not paying specific tax, 8	17
of bridge companies, 8	17
of cable railroad companies, 8	17
of corporations, taxation of exempts shares in, 8	16
of electric light companies, 8	17
of electric railroad companies, 8	17
of gas and coke companies, 8	17
of hydraulic companies, 8	17
of Indians not citizens, exempt, 9	19
of insurance companies, what taxable, 11	21
of natural gas companies, 8	17
of navigation companies, where assessed, 11	21
of non-residents where assessed, 14	22, 23
of owners in common, how assessed, 24	33
of plank road companies, 8	17
of poor persons may be exempted, when, 7	13
of street railroad companies, 8	17
of transportation companies, 8	17
of water works companies, 8	17
on public lands, 14	23
person in possesion and required to pay taxes may recover, when and how, 14, 47, 23, 60	
removal of before taxes paid, 48	63
seizure and sale of for taxes, 47	59, 60
situate without State, 8	16
statement of, 19	30-31
subject to taxation unless expressly exempted, 1, 8	9, 17
supervisors shall estimate value of, 24	33
tax lien on has precedence, 40	53
taxes and charges a lien on until paid, 40	52, 53
under control of agent, trustee, etc., 14	23
upon contiguous tracts, where assessed, 17	26
used in operating certain railroads, exempt, 7	13
used with billiard tables, 19	30
valuation to be entered upon records of board of supervisors, 34	41
where assessable, 11, 13, 14, 15, 16, 17	21, 22, 23, 25, 26
See "Assessment."	
PERSONAL SERVICE:	
of notice of review of assessment by Board of State Tax Commissioners, 152	144
of notice under Section 140, how made, 140	137, 138
of notice under Section 140, sheriff's fees for, 146	137
of publication equivalent to, 66	76
substituted service by purchaser for taxes, 140	138
PERSONAL TAXES:	
See "Personal Property."	
PETITION FOR DECREE:	
Auditor General shall file new, when, 67	83
Auditor General shall file, when, 61	72
construed to include lists annexed, 61	73
continuance of hearing on, when, 67	82
equivalent to bill in chancery, 61	72
for sale of real property for city or village taxes, 108	121
publication of equivalent to personal service of notice of, 66	76
publication of shall give court jurisdiction, etc., 66	76
shall aver the taxes included have not been paid, 61	72
shall aver validity of taxes, 61	72
shall be in substantial record book, 61	73

PETITION FOR DECREE—*Continued:* Page
shall be signed by Auditor General, 61 72
order of hearing, 63 74
taxes in presumed legal, 68 77
what to contain, 61 72, 73
See "Petition for Sale."
PETITION FOR SALE:
for city or village taxes in certain municipalities, 108 121
part payment of taxes after filed shall not stay proceedings as to part unpaid, 106 119
See "Petition for Decree."
PEWS:
See "House of Public Worship."
PICKETS:
where assessable, 15 25
PICTURES:
See "Family Pictures."
PILING GROUND:
assessment of forest products in, 14 22, 22
personal property of non-resident in, 14 22, 23
PIPES:
of lighting and water companies, 8 17
PLACE OF STORAGE:
assessment of forest products in, 14, 15 23, 25
personal property of non-residents in, 14 22, 22
PLANK ROAD COMPANIES:
personal property of, 8 17
PLATS:
certificate of payment of taxes required before filing or recording, 135 133, 134
copies of, etc., provision relative to filing and recording, 135 134
lands included in, how described, 25 35
lands included in, provision as to homestead entry, 131 130
POSSESSION:
liability attaching to, 3 11
of animals, 14 22
of forest products in transit to point outside State, provisions relative to, 14 23
of mortgaged or pledged personal property, 14, 19 23, 28
of land under tax deed for five years, provisions relative to, 73 96
person in, may recover taxes paid how, 47 60
under tax sale, when prohibited, 142 140
POSTS:
statement of, 19 30
where assessable, 15 25
POVERTY:
exemption by reason of, 7 13
PRESIDENT:
See "Corporations." "Officers."
PRIVATE BANKERS:
See "Banks."
PROCESS:
for possession of lands, when not to issue, 140 137
PRODUCE:
assessable as personal property, 8 17
PROPERTY HELD IN PAWN:
statement of, 19 28
PROSECUTING ATTORNEY:
duties in case of refusal to make statement, 19 29
report to of wilful neglect or refusal, 21 32
shall advise county and township officers without charge, 100 117
shall examine papers, etc., referred, and report opinion to board of supervisors, 37 47
to approve bond of county treasurer to Auditor General, 93 109
to prosecute for failure to pay bid, 70 86
PROTEST:
payment of tax under, 53 65
suit for recovery of tax paid under, 53 65
PROVISIONS:
limit of exemption of, 9 19
PUBLIC PROPERTY:
of State exempt, 7 12
of United States exempt, 7 12
PUBLICATION:
of annual sale of State tax lands, 79 101
of notice by purchaser for taxes in certain cases, 140 138
of notice of review of assessments by State Tax Commissioners, 153 145
of order and petition for decree of sale, 63 75
of order and petition for decree of sale, Auditor General shall cause, 66 76
of order and petition for decree of sale, cost of, 65 76
of order and petition for decree of sale, directions for, 66 76
of order and petition for decree of sale shall be equivalent to personal notice, 66 76
of tax laws, etc., by Auditor General, authorized, 121 125
See "Advertising." "Newspapers."

	Page
PURCHASER:	
of delinquent tax lands, county treasurer shall enter name and address of in Tax Record, 70	86
of delinquent tax lands, court may put in possession, etc., 72	92
of delinquent tax lands, entitled to deed after expiration of redemption, 72	91
of delinquent tax lands, failure of to pay bid, 70	86
of delinquent tax lands, shall also take from State tax land list, 70	87
of delinquent tax lands shall be given certificate of sale, 70	86
of delinquent tax lands, shall cause notice to be served on certain parties, 140	137
of delinquent tax lands shall make payment, when, 70	86
of delinquent tax lands, who shall be, 70	86
of State bids shall receive certificate, 84	103
of State tax lands, court may put in possession, etc., 137	135
of State tax lands, entitled to deed, when, 82, 84	102, 103
of State tax lands, required to purchase same description of delinquent tax land, 80	101
of State tax lands, shall cause notice to be served on certain parties, 140	137
of State tax lands, to be given certificate, 81, 84	102, 103
See "Delinquent Tax Lands," "State Bids." "State Tax Lands."	
QUARRIES:	
value of to be considered in assessment, 27	37
QUIT CLAIM DEEDS:	
provision relative to recording, 135	134
RAILROAD COMPANIES:	
deed to right of way of, provision relative to recording, 135	134
exception of, when, 19	28
what real property of exempt, 7	13
RAILROAD RESERVE:	
forest products on, 15	25
RAILROAD TIES:	
statement of, 19	30
supervisor to ascertain amount, 16	26
where assessable, 15	25
READING ROOMS:	
personal property of exempt, when, 9	18
REAL ESTATE:	
See "Real Property."	
REAL PROPERTY:	
assessed where situated, 3	11
assessment of as "owner unknown," 24	33
assessment roll to contain full description of, 24	33
charitable homes of fraternities exempt, 7	13
exemptions of, 7	12, 13
how described on assessment roll, 25	36
includes all lands within State, 2	10
includes buildings, fixtures and appurtenances, 2	10
interest in part paid State lands assessable, separate from other property, 4	12
may be described by abbreviations, etc., 25	36
of banks, deduction of from value of shares, 8	16
of benevolent institutions exempt, when, 7	12, 13
of certain corporations exempt, 7	12, 13
of charitable institutions exempt, when, 7	12
of corporations, deduction of, 19	28
of corporations, how assessed, 5	12
of deceased persons, how assessed, 3	11
of educational institutions exempt, when, 7	12
of fraternal or secret societies not exempt, 7	13
of insurance companies deducted from net assets, 11	21
of libraries exempt, when, 7, 9	12, 18
of marine companies, 19	29
of poor persons may be exempted, when, 7	13
of railroad companies exempt, when, 7	13
of railroad companies not adjoining track, assessable, 7	13
of railroad companies subject to special assessment, 7	13
of scientific institutions exempt, when, 7	12
payment of tax on part of description, 53	65
statement of by associations or corporations, 19	28
statement of by bankers and brokers, 19	27, 28
subject to taxation unless expressly exempted, 1	9
supervisor shall estimate value of, 24	33
sworn statement of, on demand, 19	29
taxes and charges a lien upon until paid, 40	52, 53
to whom assessed, 3	11
uniform valuation of, in counties, 34	41
used for burial grounds, exempt, 7	13
valuation to be entered upon records of board of supervisors, 34	41
where assessed, 3	11
See "Assessment," "Delinquent Tax Lands," "Lands," "Returns."	
REASSESSMENT OF TAXES:	
when ordered by board of supervisors, 96	111
RECEIPT:	
county treasurer shall give township treasurer for money paid in, 55	68
for taxes evidence of payment, 53	66
for taxes paid county treasurer, county clerk shall countersign, 58	71

RECEIPT—*Continued:* Page

for taxes paid county treasurer, county clerk shall forward duplicate of to Auditor General, 58 ... 71
for taxes paid county treasurer shall be in duplicate, 58 ... 71
for taxes paid under protest, shall contain minute of protest, 53 ... 65
for taxes shall show description of land, 53 ... 65
for partial payment shall show portion unpaid, 53 ... 65
for township treasurer's bond, county treasurer shall give, township treasurer shall deliver to supervisor, 43 ... 55
township treasurer and city collector shall give for every tax paid, 46 ... 58
See "Duplicate Receipt."

RECONVEYANCE:
form and effect of, 141 ... 139
provision for, 141 ... 139

RECORD BOOKS:
Auditor General shall furnish to county clerks and county treasurers at expense of State as made necessary by act, 122 ... 125

RECORDS:
absence of or omissions in, shall not affect validity of tax, when, 99 ... 113
are evidence of facts set forth, 99 ... 114
of appraisements of tax homestead lands, 131 ... 132
of determination by Auditor General and Commissioner State Land Office as to abandoned State tax lands, 127 ... 128
of proceedings of board of supervisors, amount to be raised by taxation to be entered upon, 37 ... 47
of township treasurer's returns, 57 ... 70
presumption of regularity, 99 ... 114
relating to money to be raised by taxation, board of supervisors may cause to be corrected, etc., 37 ... 47
relating to money to be raised by taxation, board of supervisors may refer to prosecuting attorney, 37 ... 47
relating to money to be raised by taxation, county clerk shall deliver to board of supervisors, 36 ... 43
relating to money to be raised by taxation, supervisor shall deliver certified copy of to county clerk, 36 ... 43
relating to money to be raised by taxation, township clerk shall deliver certified copy of to supervisor, 36 ... 43
required of township or school district board, how signed, 99 ... 114

REDEMPTION:
amount necessary for, 74 ... 98
at office of Auditor General, 74 ... 98
at office of county treasurer, 74 ... 98
by persons owning lands or any interest therein, 74 ... 98
lands sold for taxes subject to, 60, 74 ... 72, 98
may be of part or interest owned, 74 ... 98
of homestead and part paid lands forfeited for taxes, 102 ... 118
period of, 71, 74 ... 91, 98
refunding of, 82 ... 102
showing necessary for, 74 ... 98
See "Redemption Certificate," "Refunding."

REDEMPTION CERTIFICATE:
an entry of evidence of payment, 74 ... 98
Auditor General to prescribe form of, 74 ... 98
county treasurer to issue duplicate of, 74 ... 98
refunding on, 82 ... 102
See "Duplicate Redemption Certificate."

REFERENCE LIBRARIES:
personal property of exempt, when, 9 ... 13

REFUNDING:
of defective taxes, when not required, 86 ... 105
of proceeds of tax sales by Auditor General, when, 98 ... 112
of redemption, 82 ... 102
of taxes paid on appeal from decree, 67 ... 83
on affidavit of loss of certificate, 73 ... 92
on sales set aside, 73 ... 96
on sales set aside, interest on, 73 ... 96
See "Cancelation of Sale," "Redemption."

REFUSAL:
to make statement of property, 19 ... 29
to pay taxes, duty of township treasurer in case of, 47 ... 59, 69
See "Willful Neglect or Refusal."

REGISTER IN CHANCERY:
See "County Clerk."

REGISTER OF DEEDS:
liability of for damages for recording certain instruments without certificate of taxes paid, 135 ... 134
penalty for violation of Section 135, 135 ... 134
record of decree, etc., in office of, 75 ... 99
recording of tax deeds by, 72, 135 ... 91, 134
shall enter certain orders in record of tax deeds, 75 ... 99
shall note presentation or non-presentation of certificates of taxes paid upon certain instruments presented for filing or recording, 135 ... 134
shall record deeds of abandoned State tax lands deeded State, fee for, 128 ... 129
shall refuse to receive and record certain instruments if lacking certificate of taxes paid, etc., 135 ... 134

Page

REGISTER OF DEEDS—*Continued:*
shall require certificate of Auditor General or county treasurer before filing or recording certain instruments of conveyance, 135 ... 133, 134
shall send notice of decree of annulment to Auditor General, 75 ... 99, 100
REJECTED TAXES:
Auditor General shall furnish county treasurer list of, 96 ... 111
by county treasurer, for what causes and when rejected, 55 ... 68
county treasurer shall furnish township treasurer list of, 55 ... 68
on lands detached from county, Auditor General shall adjust, how, 97, 105 ... 112, 119
who chargeable to, 95 ... 110
RELEASE:
of certain forest products from lein for taxes paid, 14 ... 24
REMOVAL FROM OFFICE:
refusal of county treasurer to give bond as required by Auditor General sufficient cause for, 93 ... 109
REOFFER AT TAX SALE:
of parcels unsold, 70 ... 86
REPORT OF ASSESSED VALUATION AND TAXES:
by city, township and village clerks, 41 ... 53
to Auditor General, 41 ... 53, 54
to county clerk, 41 ... 53
REPORT OF TAX SALE:
to Auditor General, 70 ... 87
to clerk of court, 70 ... 86, 87
RESIDENCE:
of copartnership, 12 ... 21
of corporation, 11 ... 21
RETURN:
of delinquent taxes not affected by organization of new county, 105 ... 119
of delinquent taxes to county treasurer, expense of paid by township, 90 ... 108
of unpaid taxes on part paid State lands and homesteads, 4, 102 ... 12, 118
of unpaid taxes on real property by county treasurer to Auditor General, 57 ... 70
of unpaid taxes on real property by township treasurer to county treasurer, 55 ... 68
See "Delinquent Taxes."
REVIEW OF ASSESSMENT:
by State Tax Commissioners, 152-3 ... 144, 145
RIGHT OF WAY:
See "Railroad Companies."
ROAD:
of certain railroad and transportation companies, 8 ... 17
ROAD DISTRICTS:
taxation of personal property in, 17 ... 26
ROLLING STOCK:
See "Railroad Companies."
ROYALTIES:
taxable, 8 ... 16
SALE FOR TAXES:
of buildings, etc., on public lands, 14 ... 23
See "Delinquent Tax Lands," "State Tax Lands," "Tax Sales."
SALE OF PERSONAL PROPERTY:
how affects assessment, 17 ... 26
tax lien takes precedence of, except, 40 ... 53
See "Seizure and Sale."
SALE SET ASIDE:
See "Cancelation of Sale."
SAW LOGS:
See "Forest Products," "Logs."
SCHOOL BOOKS:
exempt, 9 ... 19
SCHOOL DISTRICTS:
lands owned by, exempt, 7 ... 12
taxation of personal property in, 17 ... 26
SCHOOL TAX:
board of supervisors shall direct spread upon roll, 37 ... 47
board of supervisors to examine relative to, 37 ... 47
to be in column with one mill tax on roll, 39 ... 51
township clerk to furnish supervisor statement of moneys to be raised, 36 ... 43
township treasurer to retain, to be paid on order of district officers, 52 ... 65
SCIENTIFIC INSTITUTIONS:
personal property of, exempt, when, 9 ... 18
real property of, exempt, when, 7 ... 12
SECRETARY:
See "Officers."
SECRETARY OF BOARD OF STATE TAX COMMISSIONERS:
election, salary and duties, 146 ... 141
shall take constitutional oath, 147 ... 141
to attest subpoenas issued by board, 148 ... 141
SEEDS:
assessed as personal property, 8 ... 17
SEIZURE AND SALE:
for taxes on lands, provision relative to in case land is deeded to State, 47 ... 60
for taxes, no property exempt, 47 ... 59
See "Distress and Sale."

	Page
SEWING MACHINES:	
when exempt, 9	19
SHARES:	
in bank, statement of, 19	30
in bank, taxable, how, 8	16
in bank, where assessed, 14	22
in corporations, statement by, 19	28
in corporations, taxable when, 8	16
SHED:	
forest products in, 15	25
SHEEP:	
six months old and under exempt, 9	19
SHERIFF:	
compensation of as collector, 51	65
delivery of tax roll to, when, 51	65
shall collect taxes, when, 51	65
shall execute warrant of Auditor General for trespass, etc., on State tax lands, 113	122
shall give bond as collector, when, 51	65
shall mail notice under Section 140, when, 140	133
shall pay money collected upon Auditor General's warrant, to State Treasurer, when, 113	122
to file return of service of notice under Section 140 with county clerk, 140	137
to serve notice under Section 140, 140	137, 138
vested with powers of township treasurer, when, 51	65
See "County Officers."	
SHINGLES:	
where assessable, 15	25
SHIPS:	
appurtenances of, 8	16
statement of, 19	29, 30
taxable as personal property, 8	16
SHOP:	
personal property of non-resident in, 14	22
SILVER PLATE:	
statement of, 19	30
SLEIGHS:	
statement of, 19	30
SLIPS:	
owned or used by marine companies, 19	29
SOIL:	
quality of, to be considered in assessment, 27	37
SONS OF VETERANS:	
personal property of camps of, exempt, 9	18
SORTING GROUNDS:	
forest products in transit to, 14, 15	23, 25
SPECIAL ASSESSMENT:	
real property of railroad companies subject to, 7	13
SPECIAL ORDERS OF COURT:	
made part of decree, 66	77
SPECIAL TAXES:	
board of supervisors shall examine records, etc., relative to, 37	47
shall be in separate columns on assessment roll, 39	51
township clerk to give supervisor records relative to moneys to be raised for 36	43
township treasurer to retain, etc., when, 52	66
SPECIFIC TAXES:	
certificate as to payment before recording deed to railroad right of way, 135	134
corporations paying, exempt, 7, 8	13, 17
payment of exempts, when, 11	21
STANDING TIMBER:	
assessor shall consider in determining value of land, 27	37
STATE AGRICULTURAL SOCIETY:	
See "Agricultural Societies."	
STATE BIDS:	
purchase of, 84	103
purchase of, shall not prejudice subsequent tax, 85	104
See "Delinquent Tax Land," "State Tax Land."	
STATE BOARD OF EQUALIZATION:	
last equalization of, to be basis of apportionment of State tax, 35	43
STATE LAND OFFICE:	
See "Abandoned Land Deeded State," "Commissioner of State Land Office."	
STATE LANDS:	
interest in, how assessed, 4	12
See "Abandoned Land Deeded State," "Homestead Lands," "Part Paid Certificates," "State Tax Land."	
STATE OF MICHIGAN:	
public property of, exempt, 7	12
shall defend title of homesteader, 131	131, 132
STATE OFFICERS:	
compensation of and expense incurred by, paid by State, 90	108
losses by default of chargeable to State, 91	109
See "Auditor General," "Commissioner of State Land Office," "State Treasurer."	

STATE TAX COMMISSIONERS: Page
action of shall be final, 152 145
appointment by Governor, 145 140
appointment shall be made while legislature is in session, 145 141
authorized to examine any person having knowledge of property of one who fails to make correct sworn statement, 22 32
Board of State Auditors shall cause report to be printed, 152 144
Board of State Auditors to audit and allow salaries and expenses of board, 147 141
duties of board, 150 142
duty of to report willful neglect or refusal to make sworn statement and make complaint to prosecuting attorney, 31 32
general review of roll by, 153 145
how vacancies filed, 145 141
may call on Attorney General or prosecuting attorney to assist, 150 142
may direct assessor to appear with roll, 152 144
may hear and determine, 153 146
members and secretary shall take oath of office, 147 141
notice of time and place of review of assessments, 152 144
notice of time and place of general review of assessment, 153 145
omitted taxes not spread for years prior to last change of ownership, 154 146
penalty for refusal to respond to subpœna of the board, 148 142
power to examine witnesses, 148 142
qualifications, 145 140
review of assessment, 152 144
right to examine books, etc., of corporations paying specific taxes, 148 142
salary and expenses of members, 146 141
salary and expenses paid out of general fund, 147 141
secretary of board, election, salary, duties, 146 141
sessions of board, when and where held, 148, 149 141, 142
shall certify omitted property to board of supervisors, 154 146
shall have access to public records, 148 141
shall have right to subpœna witnesses, 148 141
shall hear and determine as to proper assessment, 152-3 145, 146
shall make annual report to Governor, 151 144
shall order taxes spread at rate of omitted years, 154 146
shall place property and value on assessment roll, 152-3 145, 146
subpœnas, how served, 148 141
subpœnas to be signed by president and attested by secretary, 148 141
succession, 145 141
terms of office, 145 140
to ascertain regarding revenue laws of other states, 150 143
to ascertain valuation of property paying specific taxes, 150 143
to attend meetings of State Board of Equalization, 150 144
to receive complaints of irregularities in assessment, 150 142
to report and make recommendation to legislature, 150 143
to require reports from officers, 150 143
to see that tax officers comply with the law, 150 143
to visit each county, 150 143

STATE TAX LANDS:
abandoned by owner, Auditor General authorized to transfer to State by deed, when, 127 128
action of ejectment or trespass on after sold to individual, 86 105
annual sale of by county treasurer, 79 101
annual sale of to be advertised by Auditor General, 79 101
any county officer to report trespass, 113 122
Auditor General may furnish State trespass agent list of, 113 122
Auditor General shall furnish statement of to county treasurer, 78 101
Auditor General and Commissioner of State Land Office shall cause examination, etc., of, when, 127 127
circuit court may put purchaser in possession of by writ of assistance, 137 135
conditions of purchase of at annual tax sale, 80 101
conditions of purchase of at Auditor General's office, 84 103
county treasurer shall refuse bid for, when, 80 101
county treasurer shall report trespass on to Auditor General, 113 122
deed of Auditor General to State for, to be recorded, 127 128
duties of Auditor General relative to, 124 126
include certain lands unsold by county treasurer, 68 85
liability of persons bidding on, 79 101
must be purchased by purchaser of same description of delinquent tax lands, 70, 80 86, 101
not exempt, 7 12
not liable to assessment after deeding to State as abandoned until again sold, 130 130
proceeds of sale of refunded by Auditor General, when, 98 112
purchaser entitled to recover for improvements if dispossessed, 104 118
removal of timber, etc., from, county officers shall report, 113 122
removal of timber, etc., from, unlawful, 113 122
sale of, shall not prejudice subsequent tax, 85 104
sale of when returned delinquent, 85 104
shall be offered at annual tax sales, 78 101
shall continue taxable, 7, 68, 70 12, 85, 87
sheriff and county treasurer to report trespass on to Auditor General, 113 122
taxes a lien on, 68 85

STATE TAX LANDS—*Continued:* Page
transferred to State by deed of Auditor General, subject to homestead entry, 131 ... 130
warrant of Auditor General for collection of taxes and charges on from trespasser, 113 ... 122
what Auditor General's statement of shall contain, 78 ... 101
See "Abandoned Lands Deeded State," "Delinquent Tax Lands."
STATE TAXES:
apportionment of according to valuation, 35 ... 42
Auditor General shall apportion among counties, 35 ... 42
Auditor General shall make and record statement of, 35 ... 42, 43
bond of county treasurer for, 93 ... 109
bond of township treasurer for, 43 ... 55
interest on belongs to State, 89 ... 108
statement of by Auditor General to show law on which based, 35 ... 42, 43
to be in separate column on roll, 39 ... 51
township treasurer to pay county treasurer, when, 42, 54 ... 54, 67
STATE TREASURER:
Commissioner of State Land Office shall pay money received from abandoned State tax land deeded State to, 134 ... 133
delinquent taxes may be paid to before day of sale, 106 ... 119
disposition of proceeds of tax sales, 70 ... 87
failure of to make proper entry and return of taxes received, penalty for, 117 ... 134
payment of taxes to before sale, 106 ... 119
payment of taxes to on homestead and part paid State lands, 103 ... 118
payment to, by sheriff of money collected on warrant of Auditor General, 113 ... 122
shall pay cost of advertising, 65 ... 84
STATE TRESPASS AGENT:
Auditor General may furnish with lists of State tax land, 113 ... 122
shall examine State tax land and report trespass to Auditor General, 113 ... 122
STATEMENTS:
Auditor General shall make, of indebtedness of counties to State, 35 ... 42
Auditor General shall make, of moneys to be raised by State tax, when, 35 ... 42, 43
board of supervisors may cause correction of, 37 ... 47
how signed by township or school district board, 99 ... 114
of amount collected, township treasurer shall make, 55 ... 68
of personal taxes uncollected, county treasurer shall give to township treasurer, 66 ... 70
of State tax and county indebtedness to State, county clerk shall lay before board of supervisors, 37 ... 47
of State tax and county indebtedness to State, supervisor to deliver to county clerk, 36 ... 43
of taxes levied, supervisor shall give to township clerk, 41 ... 53
of taxes paid on any State lands, Commissioner of State Land Office shall furnish Auditor General, when, 103 ... 118
of taxes paid on homestead and part paid lands, Commissioner of State Land Office shall transmit copy of to county treasurer, 103 ... 118
of taxes rejected by county treasurer, 55 ... 68
of taxes uncollected, township treasurer shall make, etc., 55 ... 68
of unpaid taxes on personal property removed from assessment district, township treasurer shall make, etc., 48 ... 63
required by act, evidence of facts set forth, 99 ... 114
township clerk shall deliver certain to supervisor, when, 36 ... 43
See "Sworn Statements," "Transcripts."
STEAMBOATS:
statement by owner of, 19 ... 29-30
STOCK:
amount paid in, marine companies, 19 ... 29
assessment of, 19 ... 28
deduction of real estate of companies from, 19 ... 28, 29
in banks, cashier shall file statement of, 120 ... 124
market or actual value of, 19 ... 28
of cemetery or burial vault corporations not exempt, 7, 8 ... 13, 16
statement of, 19 ... 28, 29
See "Shares."
STOCK IN TRADE:
statement of, 19 ... 29, 30
STOCK JOBBERS:
statement by, 19 ... 27
STOCKHOLDERS:
in banks, cashier to file list of, etc., 120 ... 124
STORE:
assessment of forest products in, 14 ... 23
personal property of non-resident in, 14 ... 22, 23
STREET RAILROAD COMPANIES:
personal property of, 8 ... 17
SUITS:
certified copy of tax roll evidence in, 56 ... 69
for collection of taxes on personal property by distress and sale, 47 ... 60-63
for ejectment or trespass on land purchased at tax sales, 86 ... 105
for recovery of taxes paid by person assessed for forest products of non-resident, 14 ... 23
for recovery of taxes paid on personal property by person in possession, 47 ... 60
for surplus from sale of personal property seized, 49 ... 64

Page

SUITS—*Continued:*
for surplus from sale of personal property seized, no other case to be joined, 49 64
no costs in suits to set aside taxes or sales, 144 140
on sheriff's bond as collector, 51 65
relating to certain lands may be brought in Ingham, 127 123
tax deeds evidence in, 77 100
to enforce or set aside tax, tax held illegal when, 76 100
to set aside taxes, etc., effect of in case of abandoned lands, 127 127
to set aside taxes or sales, Auditor General a party, 144 140
to set aside determination as to abandoned State tax lands, limitations, conditions, 127 123

SUPERVISOR:
assessment roll prepared by, shall stand as approved, when, 29 38
compensation of, for certain services, 110, 152, 153 122, 145, 146
complaint by against person refusing, etc., 19 29
county clerk shall notify, of stockholders in bank, 120 134
county treasurer shall furnish with list of part paid State lands and certain licensed homestead lands, 92 109
discretionary assessment of interest in certain lands, 6 12
duties in assessment of real property of corporations, 5 12
duties of, relating to assessment, 18-27 26-37
duty of when statement of taxable property is incorrect, etc., 22 32
every resident owner, etc., shall deliver sworn statement of personal property to, on demand, 19 29
fraudulent action by, invalidates tax, 76 100
may add one per cent. to avoid fractions, 39 51
may exempt real property and personal property of poor persons, when, 7 13
may make new roll in case of loss of original, 42 54
member of board of review, 28 38
member of board of review, in cities, when, 107 120
notice to of division of estate, 3 11
notice to of names of heirs or devisees, 3 11
prosecuting attorney shall advise without charge, 100 117
provisions relative to include assessing officers, 107 120
shall annex warrant to roll, 42 54
shall appear before State Tax Commissioners with assessment roll, when, 152, 153 144, 145
shall assess taxes apportioned, 39 51
shall carry out on roll total of taxes against each description, 39 51
shall deliver statement of township, etc., taxes to county clerk, when, 36 43
shall deliver tax roll to township treasurer, when, 43 55
shall estimate cash value of property, 24 33
shall exercise best judgment in assessing, 24 33
shall file and keep assessment roll, 34 41
shall file sworn statements and present to board of review, 23 32
shall foot taxes on roll, 41 53
shall give township clerk statement of taxes on roll, 41 44
shall keep record of proceedings of board of review, 33 41
shall not accept sworn statement as final, when, 30 31
shall notify township treasurer of State and county taxes, when, 43 54
shall omit tax homestead land from assessment roll, 130 130
shall prepare tax roll, 42 54
shall produce list of State tax lands to board of review, 130 130
shall produce to board of review list of homestead lands deeded, 133 133
shall require sworn statements of taxable property, 18 26
shall take official notice of records, etc., in office of township and county clerks, 33 50
time for completing assessment roll, 24 33
to approve bond of township treasurer, 43 55
to assess personal property as may deem just, 22 32
to collect from township treasurer taxes received and unaccounted for, 112 122
to determine acreage, 24 33
to enter personal property and real property separately, 19 28
to examine other persons having knowledge of property, when, 22 32
to make annual assessment, 10 20
to make complaint in case of willful neglect or refusal, 21 32
to notify absent members of board of review, 32 41
to view and value forest products in transit, etc., 16 25
township clerk to furnish with copies of records, etc., 36 43
township clerk to furnish with copies of tax law, 121 135
when shall deliver tax roll to sheriff, 51 65
willfully erroneous assessment by, penalty for, 116 124
See "Assessing Officers." "Assessor." "Board of Supervisors."

SUPERVISOR'S WARRANT:
directed to sheriff, when, 51 64, 65
seizure under, time of sale, 47 59
to be annexed to assessment roll, 42 54

SUPREME COURT:
appeal of Auditor General or county treasurer to, 67 83
appeal to from decree of sale, 67 83
chancery practice to govern, when, 67 83
clerk of shall make certified copy of decree, etc., when, 75 99
may order sale deferred or canceled, when, 69 85
record of circuit court on appeal to, 67 83
See "Courts."

SURETIES: Page
on bond of person employed by Auditor General to conduct tax sales, 94 110
on county treasurer's bond, liable for deputy and clerks, 93 109
on county treasurer's bond, who approved by, 93 109
on township treasurer's bond, discharge of, 56 69
on township treasurer's bond, liability of for acts of deputy, 111 122
on township treasurer's bond, liability of for incorrect returns, 56, 112 69, 122
on township treasurer's bond, to be approved by supervisor and county treasurer, 43 55
on township treasurer's bond, to consent to appointment of deputy, 111 122
SURPLUS FROM SALE:
action for recovery of, 49 64
SWINE:
six months old and under, exempt, 9 19
SWORN STATEMENT:
by bankers and brokers, 19 27, 28
by companies, 19 28
by owners of marine property, 19 28
by pawnbrokers, 19 28
duty of supervisor and State Tax Commissioners when incorrect, 22 32
duty of supervisor and State Tax Commissioners when unobtainable, 22 32
every owner of taxable property required to make, on demand, 19 28
illegitimate use of, liability for, 23 32
may be destroyed, when and how, 23 32
not to be sufficient unless properly executed, 20 31
of taxable property, 18 26
penalty for falsification of to evade taxation, 130 135
refusal to make, 19, 21 29, 32
shall be deposited with township clerk, 23 32
shall be presented to board of review, 23 32
supervisor shall file, 23 32
supervisor shall preserve, 20 31
used as evidence, when, 20 31
willful neglect to make, penalty for, 130 135
See "Statements."
TAN BARK:
supervisor to ascertain amount, 16 25
where assessable, 15 25
TAX DEEDS:
evidence in certain actions, 77, 86 100, 106
for abandoned State tax lands deeded State, recording of, 128 129
issue of to assignee of executor or administrator, 101 117, 118
issued by Auditor General held conclusive, 99 114
provision relative to recording, 135 133, 134
recorded release of, for refunding, 98 112
register of deeds shall note decree of annulment on record of, 75 99
shall be surrendered on refunding unless recorded, 98 112
to deceased person or heirs, 101 117, 118
withheld by Auditor General, when, 98 112
See "Deeds."
TAX HOMESTEAD LANDS:
See "Abandoned Lands Deeded State."
TAX LAWS:
distribution of by certain officers, 121 125
publication of by Auditor General at expense of State, 121 125
repeal of certain, 126 127
State Board of Auditors shall audit claims for services and expenses in publication of, 121 135
See "Vested Rights."
TAX RECORD:
all orders of court on hearing of petition for decree to be entered in, 66 77
county clerk shall deliver to county treasurer, 67 82
county treasurer shall enter therein record of tax sales and descriptions bid to State, 70, 71 86, 91
county treasurer shall minute redemption certificate in, 74 99
county treasurer's report to county clerk of tax sales to refer to for particulars, 70 87
shall remain in office of county treasurer, except when, 67 82
to be substantial book, 61 73
what to contain, 61 72, 73
TAX ROLL:
certified copy of shall be taken as evidence, 56 69
county treasurer shall file, 56 69
irregularities in shall not invalidate tax, 99 113
prima facie evidence in suit for taxes on personal property, 47 60
rejection by county treasurer of erroneous description on, 55 68
supervisor shall deliver to sheriff, when, 51 64, 65
supervisor shall note notice to tenant on, 44 56
township treasurer shall deposit with county treasurer, 56 69
what constitutes, 42 54
See "Assessment Roll."
TAX SALES:
Auditor General to employ person to conduct, when, 94 110
compensation of person employed by Auditor General to conduct, 94 110

	Page
TAX SALES—*Continued:*	
date as if made on first day fixed therefor, 70	87
for city or village taxes, provision for, 108	121
held invalid by courts, when, 99	114
in contravention of law, provisions relative to, 98, 139	112, 136
presumed legal, 99	114
proceeds of refunded, when, 98	112
proceeds of State's portion of to be paid to State, when, 70, 87	87, 106
set aside after confirmation, when, 70	87
set aside for inadequacy of price, requirements, 70	87
subject to provisions of Section 140, 140	137
See "Delinquent Tax Lands," "Petition for Decree," "Petition for Sale," "Sale for Taxes," "State Tax Lands."	
TAXATION:	
all property not expressly exempted subject to, 1	9
See "Assessment," "Taxes."	
TAXES:	
amount of entered on Tax Record, 61	72
held illegal, when, 76	100
in petition for decree presumed legal, 66	77
interest on paid State, county and township in proportion to relative rights, 80	108
may be paid before sale, 59	71
on real property, who liable for, 3	11
part payment of, 63	65
payment of under protest, 53	65
person having lien may pay, when, 53	66
report of to Auditor General, 41	53, 54
what railroad land subject to, 7	13
when assessed a debt to the township, 40	52, 53
See "Assessment," "Delinquent Taxes," "Specific Taxes."	
TAXES SET ASIDE:	
on lands detached from county, adjustment of by Auditor General, 105	119
See "Courts," "Delinquent Tax Lands," "Tax Sales," "Taxation."	
TELEGRAPH COMPANIES:	
exception of, 19	28
TELEGRAPH POLES:	
supervisor to ascertain amount, 16	25
where assessable, 15	25
See "Forest Products."	
TELEPHONE POLES:	
where assessable, 15	25
See "Forest Products."	
TENANTS:	
liability of for taxes on property occupied, 44	56
may pay taxes and deduct from rent, when, 53	66
supervisor shall notify of taxes on real property assessed to, 44	56
See "Tenants in Common."	
TENANTS IN COMMON:	
interest in lands owned by, how assessed, 6, 24	12, 33
TIMBER:	
cutting and removal of from State tax lands unlawful, 113	122
lands valuable for, injunction for waste, 115	123
quality and value of to be considered in assessing lands, 27	37
seizure and sale of when removed from State tax lands, 113	122
statement of, 19	30
supervisor to ascertain amount of, 16	25
where assessable, 14, 15	23, 25
See "Forest Products," "Standing Timber."	
TITLE TO LANDS:	
conveyed by tax deed, 72, 84	91, 103
evidence in action of ejectment or trespass, 86	105
tax deed evidence of, 72, 77	91, 100
See "Deeds," "Evidence," "Tax Deeds."	
TOMBS:	
kept for hire assessable, 8	16
TOOLS:	
statement of, 19	30
See "Mechanic," "Mechanical Implements and Machinery."	
TOWNSHIP BOARD:	
may fill vacancy in board of review, 28	38
may order statements destroyed, when, how, 23	32
members of ineligible to board of review, 28	38
shall appoint new township treasurer, when, 50	64
township taxes to be paid out on order of, 52	65
See "Township Officers."	
TOWNSHIP CLERK:	
county treasurer shall furnish tax laws to, 121	125
notice of county treasurer to, of statement and money sent township treasurer, 87	106
records of board of review to be filed with, 33	41
shall charge taxes to township treasurer, 41	53
shall charge township treasurer amounts sent him by county treasurer, 87	106
shall distribute tax laws to township officers, 121	125
shall notify county treasurer of appointment of township treasurer, 50	64

TOWNSHIP CLERK—*Continued:* Page
shall preserve statements deposited, 23 22
statements shall be deposited with, 23 22
supervisor shall take official notice of records in office of, 38 50
supervisor to give statement of taxes to, 41 53
to furnish supervisor statement of moneys to be raised by taxation, 36 43
to make and deliver to supervisor copies of statements, records, etc., 36 43
See "Township Officers."
TOWNSHIP OFFICERS:
compensation of, shall be paid by township, 99 108
losses by default of, chargeable to township, 91 100
taxes withheld by reason of error of, chargeable to township, 95 110
See "Supervisor," "Township Board," "Township Clerk," "Township Treasurer."
TOWNSHIP TAXES:
board of supervisors shall direct spread upon roll, 37 47
board of supervisors to examine relative to, 37 47
in State treasury, Auditor General shall transmit warrant for, 87 106
loss of, on abandoned State tax lands deeded State borne by township, 130 130
refundings on account of canceled sales, when charged back, 73 96
to be in separate column on roll, 39 51
to be paid out on order of township board, 52 65
township clerk to furnish supervisor statement of money to be raised, 36 43
township treasurer to retain, etc., 42, 52 54, 65
See "Assessment."
TOWNSHIP TREASURER:
collection of taxes by, on personal property removed, 48 63
county treasurer shall furnish statement of rejected taxes to, 55 68
deputy to be paid by, 111 122
duties in case full tax not collected, 52 65
expenses on taxes voluntarily paid to, 89 108
failure of to make proper entry and return of taxes received, penalty for, 117 124
fees of for distress and sale, 48 63
liability for surplus, 49 64
liability for taxes received and unaccounted for, 112 122
liability on bond, after settlement, 56 69
may appoint deputy with consent of bondsmen, 111 122
may enforce collection of personal tax, when, 44 56
may garnishee debtor for tax on personal property, 47 60
may sue for tax on personal property, when, 47 60
notice of sale of property seized for taxes, 47 59
office hours of, during collection, 44 56
payment of tax to by persons having partial interest, 53 66
powers and duties of deputy, 111 122
prosecuting attorney shall advise without charge, 100 117
provisions relative to, include collecting officers, 107 120
receipt and statements of county treasurer voucher of for taxes, 55 68
return of failure to sell property seized, 47 60
shall add collection fees, 44 56
shall collect all taxes before March 1, 45 57
shall collect by seizure and sale, when and how, 47 59, 60
shall collect taxes on receipt of roll, 44 56
shall deliver to supervisor receipt for bond, when, 43 55
shall demand payment of cashier on bank stock, 46 53
shall deposit tax roll with county treasurer, 56 69
shall enter payments on tax roll, how, 46 58
shall give receipt for taxes, 46 58
shall give to county treasurer bond for State and county taxes, 43 55
shall keep several funds distinct, 52 65
shall make and verify statement of delinquent taxes, 55 68
shall make personal demand for taxes, when and where, 46 57, 58
shall note on receipt any part of tax unpaid, 53 65
shall note on roll notice to tenant, 44 56
shall pay judgment for surplus, 49 64
shall receive taxes, when, 44 56
supervisor shall deliver tax roll to, when, 43 55
supervisor to notify of State and county taxes, 43 54, 55
to collect taxes on personal property assessed in other townships, when, 48 63
to collect taxes on roll, 42 54
to levy taxes by distress and sale, when, 42, 47 54, 59
to pay county treasurer State and county taxes, when, 42, 54 54, 67
to retain taxes collected for township, 42, 52 54, 65
to return unpaid taxes on part paid and homestead lands, 4 12
township board shall appoint, when, 50 64
township clerk shall charge taxes to, 41 53
when return of is incorrect, provisions as to bond, 56 69
TOWNSHIPS:
board of supervisors to apportion State and county taxes among, 37 47
county indebtedness to State apportioned to, 35 43
division of, shall not affect assessment, return or collection of taxes, 105 119
lands owned by, exempt, 7 12
shall bear their share of loss of taxes canceled on abandoned State tax land deeded State, 130 130
supervisors of, shall assess taxes apportioned to, how, 39 51

	Page
TOWNSHIPS—*Continued:*	
supervisors of shall make annual assessment, 10	30
taxes a debt to, 40	52, 53
word may include city, ward or village, 107	120
See "Township Officers," "Township Taxes."	
TRACKS:	
of certain railroad companies, 8	17
See "Railroad Companies."	
TRANSCRIPTS:	
of lands returned delinquent for 1891 and 1892, provisions relative to, 123	126
of moneys received, sales made, etc., under Act 200, Public Acts of 1891, county treasurer to make and return to Auditor General, 123	126
of township treasurer's return of delinquent tax lands, county clerk shall verify, 57	70
of township treasurer's return of delinquent tax lands, county treasurer shall make and forward to Auditor General, 57	70
See "Records," "Returns," "Statements."	
TRANSPORTATION COMPANIES:	
personal property of, 8	17
statement by officers of, 19	29
See "Corporations."	
TREES:	
in nurseries, etc., personal property, 8	17
See "Forest Products," "Standing Timber."	
TRESPASS:	
on State tax lands, provisions relative to, 113	122
TRUSTEE:	
may be treated as owner, 3	11
may take reconveyance from purchaser for taxes, when, 144	139
notice to of purchase for taxes, 140	138
UNDIVIDED INTEREST:	
how assessed, 6	12
in lands of tenants in common, 24	33
in real property, payment of tax on, 53	66
UNION VETERANS' UNION:	
personal property of exempt, 9	18
UNITED STATES:	
property of, exempt, 7	12
UNITED STATES BONDS:	
exempt, 19	27
UNKNOWN:	
assessment of real property as, 3	11
UNPAID TAXES:	
See "Collection of Taxes," "Delinquent Taxes," "Taxes."	
VACANCIES:	
in board of review, township board may fill, 28	38
in office of township treasurer, township board shall fill, 50	64
VALUABLE DEPOSITS:	
value of to be considered in assessment of real property, 27	37
VALUATION:	
board of supervisors shall equalize, 34	41
what to govern supervisors in assessing taxes, 27, 39	37, 51
See "Assessment," "Cash Value," "Real Value."	
VAULTS:	
in burial grounds, kept for hire, 8	16
VEHICLES:	
statement of, 19	30
VESSELS:	
appurtenances of, 8	16
name and value of, 19	29
statement by owner of, 19	29, 30
taxable as personal property, 8	16
VESTED RIGHTS:	
not affected by repeal of heretofore existing tax laws, 125, 126	127
VILLAGE COUNCIL:	
See "Township Board," "Villages."	
VILLAGES:	
clerk of shall report taxes to county clerk, 41	52
description of lands in, 25	35
may provide by ordinance for return of delinquent taxes on real property to county treasurer, 108	121
may provide for judicial sale of delinquent taxes on real property, when, how 108	121
not entitled to delinquent taxes until paid, 107	120
real property of exempt, 7	12
real property of railroad companies subject to assessment for improvements, 7	13
supervisors of to make annual statement, 10	20
this act applicable to, when, 107	120
word "township" includes, 107	120
VOID SALES:	
when State tax lands not taken, 70	87
VOUCHER:	
of township treasurer, county treasurer's receipt and statement of rejected taxes shall be, 58	68

	Page
WARDS:	
See "Cities," "Incompetent Persons."	
WAREHOUSE:	
assessment of forest products in, 14	25
personal property of non-resident in, 14	22, 23
WARRANT:	
See "Auditor General," "County Treasurer's Warrant," "Supervisor's Warrant."	
WASTE:	
holder of certificate of sale may have injunction to restrain, 115	123
WATCHES:	
statement of, 19	30
WATER CRAFT:	
statement by owner of, 19	29, 30
WATER POWER AND PRIVILEGES:	
value of, to be considered in assessing real property, 27	37
WATER WORKS COMPANIES:	
personal property of, 8	17
WEARING APPAREL:	
of every individual, exempt, 9	19
WHARF BOAT:	
statement by owner of, 19	30
WILFUL NEGLECT OR REFUSAL:	
of bank cashier to file list of stockholders, penalty for, 120	124, 125
of officers of corporations or associations to make and verify statements required, 120	125
	32
to make and deliver sworn statements, penalty for, 21	124
to perform duties, officers liable for injuries resulting from, 119	
WIRES OF ELECTRIC LIGHT COMPANIES:	
assessable as personal property, 8	17
WOMEN'S CHRISTIAN TEMPERANCE UNION:	
personal property of exempt, 9	18
WOMEN'S RELIEF CORPS:	
personal property of exempt, 9	18
WOOD:	
cutting and removal from State tax land unlawful, 113	122
seizure and sale of, when removed from State tax land, 113	122
See "Forest Products."	
WRIT OF ASSISTANCE:	
application for, 141	139
courts may put purchaser of delinquent and State tax land in possession by, 72, 137	92, 135, 137
not to issue, when, 140	
YARD:	
assessment of forest products in, 14, 15	23, 25
YOUNG MEN'S CHRISTIAN ASSOCIATION:	
personal property of exempt, 9	18
YOUNG PEOPLE'S CHRISTIAN UNION:	
personal property of exempt, 9	18

INDEX OF SUBJECTS IN NOTES TO SECTIONS INDICATED.

Abbreviations, 25.
Abstract books, 9.
Account between county and townships, 87, 95.
Account between state and county, 35, 87, 95.
Acreage, 6, 25.
Action to set aside, 37, 70, 73, 76, 144.
Administrator, 3.
Adverse possession, 53, 73.
Adverse title, 72.
Agency, 43, 44, 53, 70, 72, 84, 87.
Agent, 3.
Agricultural societies, 1, 7, 37.

Bankers, 19.
Banks, 8, 14, 46.
Benevolent inst., 7, 9.
Bills receivable, 8.

Cancelation of State bids, 139.
Cars, 8.
Cash value, 8, 24, 27.
Cemeteries, 1, 7.
Certificate for recording deed, 135.
Certificate of equalization, 31, 43.
Certificate of error, 98.
Certificate of no taxes, 98.
Certificate of sale, 71, 81.
Certificate, statutory, 30, 37, 42, 99.
Certiorari, 31.
Charge back taxes, 95, 96.
Charitable institutions, 7, 9.
Charter provisions, 36, 66, 107.
Chattel mortgage, 40, 47.
Churches, 7.

Decree of sale, 66, 67, 99.
Decree of sale, certified copy of, 67, 86.
Deed, 25, 72. See "Tax Deed."
Demand, 46, 55.
Demand for taxes, 46, 47, 99.
Deposits, 8.

Educational institutions, 7, 9.
Ejectment, 86, 104.
Elevators, R. R., 7.
Enrollment, 67.
Equalization, 34, 39, 66, 95, 99, 107.
Equitable relief, 70, 73.
Equity, 66, 70, 72, 73, 87, 98.

Fair grounds, 7, 36.
Forest products, 13, 14, 15.

Guardian, 3, 14.

Hearing on petition, 62, 66.
Heirs, 3, 72.
Highway orders, 46.
Highway taxes, 36, 37, 39, 53, 87.

Appeal, 67, 70.
Application to purchase, 84.
Apportionment, 35, 36, 37, 99, 107.
Armories, 7.
Art associations, 1.
Assessment, M, 5, 9, 10, 11, 18, 25, 26, 27, 36, 37, 38, 39, 66, 76, 99, 107, 131.
Assessment, alternative, 11.
Assessment, discrimination, 24.
Assessment, locus, 3, 4, 10, 11, 13, 14, 15.
Assessment, omission of property, 7, 24, 30, 76.

Board of review, 7, 24, 29, 30, 31, 99, 107. See "Review."
Bond, official, 43, 51, 92, 94, 99.
Books and papers, etc., of office, 10, 18, 23, 24.

Cities, fourth class, 10.
Cities, special charter, 10.
City treasurer, 55. See "Township Treasurer."
Collateral attack, 30, 66, 70, 86, 99.
Collection, M, 40, 44, 46, 47, 51.
Collection fee, 89, 90.
Collector, see "Township Treasurer."
Colleges, 7.
Compensation of county officers, 90, 110.
Confirmation, 70.
Consideration for purchase, 140.
Construction, M, T, 7, 8.
Continuance of hearing on petition, 67.

Deputy Auditor General, 72, 92.
Deputy county treasurer, 72.
Description, 25, 55, 73, 98, 99.
Designation of paper, 63, 66.
Devisees, 3.
Dispossession, 73.

Error in favor, 99.
Escheated lands, 3, 7.
Estate, 3, 14.
Estoppel, 3, 30, 41, 46, 47, 55, 66, 67, 70, 72, 73, 86, 87, 98, 104, 107.
Excessive levy, 39, 66.
Executive discretion, 87, 95, 124.

Fraud, 24, 47, 53, 66, 70, 72, 73, 74, 76, 99.

Good faith acts, 77, 104.

Homes for aged, etc., 1.
Homestead, 7.
Homesteaders, 104, 131.

Assessment, who to, 3, 8, 12, 14, 19, 27.
Assessment roll, 7, 24, 25, 29, 30, 31, 34, 36, 37, 38, 39, 43, 99, 107.
Assessors, M, 10, 24, 27. See "Supervisor."
Assignee, 3, 24.
Assignment, 47.
Asylums, 1.
Attachment, 13.
Attorney, 72.
Attornment, 72.
Auditor General, 70, 72, 87, 94, 98.

Bridges, 8, 36, 37.
Brokers, 19.
Building and loan ass'ns, 1.
Buildings on leased land, 2.
Burden of proof, 66, 99.

Corporations, 5, 7, 8, 11, 19, 47.
County and municipal property, 7.
County clerk, 62, 67.
County clerk's files and records, 61, 62, 66, 67, 70, 99.
County road system, 37.
County tax, items included, 37, 53, 54.
County treasurer, 4, 44, 55, 67, 70, 72, 84, 87, 90, 92, 94, 102.
County treasurer's deed, 124.
County treasurer's warrant, 40, 47, 53, 56.
Credits, 8.
Crops, growing, 47.
Cumulative titles, 86.
Curative statutes, M, 99.

Dollar mark, 66, 67, 99.
Dox tax, 26.
Drain tax, 36, 37, 39, 40, 53, 66, 96, 144.
Duty to pay tax, M, 3, 6, 44, 46, 60, 72. See "Payment."

Executor, 3, 46.
Exemption, 1, 2, 7, 8, 9, 24, 25, 36, 47, 95.
Expenses, 59.
Express companies, 7.
Evidence, 42, 46, 99.

Fraudulent admixture of logs, 113.
Fraudulent conveyance, 3.

Homestead lands, 4.
Hospitals, 1, 7, 9.
Husband and Wife, 3, 6.

Imports, 9.
Improvements, 86, 104, 131.
Incompetents, 14, 69.
Indebtedness, deduction of, 9, 19.
Indebtedness of township to county, 36.
Indebtedness of vacated village, 37.
Indebtedness to State, 35.
Indian lands, 1, 7.
Industrial and charitable schools, 1.
Injunction, 44, 114.
Insolvent debtor, 44.
Interest, 59, 74, 87, 95, 96.
Interest in lands, 74.
Invalidity of sales under prior laws, 139.
Irregularities, M, 53, 54, 67, 70, 99.

Joint tenant, 72.
Judgment, 39, 107.
Judicial sales, purchase under, 72.
Jurisdiction, 1, 62, 63, 66, 70, 72, 73, 74, 77, 99.

Laches, 69, 70, 73, 74.
Lands crossed by railroads, 25.
Legal presumption, 30, 36, 66, 73, 99.
Legatees, 14.
Levy and sale, 46, 47.
Levy on shares, 47.
Libraries, 7, 36.
License tax, 9.
Lien, 40, 46, 53, 66, 72, 104.
Life tenant, 3, 72.
Limitations, M, 73, 84, 86, 104, 143.
Local customs, M.
Local imp's., 24, 36, 66.
Log marks, 15.

Machinery in building, 2.
Marksmen, society of, 1.
Mechanics' tools, 9.
Military bounty lands, 1.
Mining property, 11.
Misnomer, 12, 24, 30, 40, 99.
Mistake of officer, 54, 72, 98.
Moneys receivable for taxes, 44, 47, 54.
Mortgagee, payment by, 46, 53, 55, 74.
Mortgagee, purchase by, 46, 70, 72.
Mortgages, 1, 3, 8, 13, 66.
Mortgagor, 72, 73.
Municipal taxes, 7, 9, 10, 40, 46, 54, 66, 107.
Musical instruments, 9.
Musical societies, 1.
Mutual associations, 8.

Neglect or refusal of electors, 36, 99.
New counties, 35, 105.
New townships, 105.
Non-residents, 24, 66.
Notice, 25, 62, 63, 64, 66, 72, 135.
Notice of purchase, 140.

Objections to decree, 66, 67, 70.
Objections to sale, 70.
Occupancy, 3, 44, 72. See "Possession."
Official duty, default in discharge of, 91, 119.
One mill tax, 39.
Order of hearing, 62.
Order pro confesso, 66.
Over valuation, 24, 29.
Ownership title, 3.
Owner unknown, 47, 99.

Paintings, 9.
Partial payment, 53, 55.
Partnership property, 12, 14.
Part paid lands, 4.
Payment, 3, 46, 53, 72, 73, 98, 106. See "Duty to Pay Taxes," "Partial Payment."
Payment, attempt to make, 86, 98.
Payment, involuntary, 46, 53.
Payment, voluntary, 44, 46, 47, 53, 54, 84.
Payment on appeal, 67.
Payment under protest, 44, 46, 47, 53, 58, 67.
Penalty, 59, 74.
Personal property, 4, 8, 9, 13, 14, 15, 19, 24.
Personal property used in business, 9.
Personal service, 66.
Personal tax, 10, 44, 46, 47, 56.
Petition for decree, 60, 61, 62, 63, 66, 95.
Pipe line companies, 8.
Place of sale, 62.
Poor persons, exemption of property of, 7.
Possession, 3, 72, 73, 81, 127. See "Occupancy."
Practice, 66, 67, 70, 72, 77, 86, 104.
Premature decree, 66.
Priority, 84.
Private sale, 70.
Proof of publication, 63, 64, 66, 99.
Prosecuting attorney, 66.
Publication, 66.
Public records, 23, 46, 70, 78, 99.
Purchase of Auditor General, 84.

Questions concluded by decree, 67.
Quieting title, 72.

Railroad hotels, 7.
Railroad lands, 2, 7.
Railroad property, 36.
Railroad right of way, 25.
Real property, 2, 3, 8, 14, 24, 27, 34, 39, 47.
Reassessment, 95, 96.
Receipt for taxes, 46, 53, 58.
Receiver, 46.
Records, M. See "County Clerk's Records and Files," "Equalization," Board of Review."
Recovery of taxes paid, 44, 46, 47, 53.
Redemption, 72, 74, 87.
Refunding, 73, 98.
Remainder-man, 3.
Remedy, 24, 30, 47, 53.
Replevin, 47.
Report of sale, 71.
Report of sale, to Auditor General, 70.
Report of sale, to county clerk, 70, 99.
Residence, 13.
Resulting trust, 72.
Returns, 40, 47, 55, 56, 57, 73, 99.
Review, 29, 30, 66, 107.
Riparian rights, 2.
Rules for sale, 70.

Sale after payment, 76, 98.
Sale in contravention of law, 98.
School taxes, 7, 36, 39, 53, 66, 87, 107.
Scientific institutions, 7, 9.
Second deed, 83.
Securities, 14.
Shares, stock, 8, 14, 40, 46, 47.
Sheriffs, 51.
Special tax, 99.
State bids, 84.
Statement of moneys received, 99.
Statement of property, 18, 19, 24.
State property, 7.
State tax lands, 68, 78, 79, 84.
State tax land lists, 78.
State taxes, 37, 53, 54, 87.
Statutory foreclosure, 66.
Stock in trade, 8.
Submitting tax to vote, 35, 99.
Substituted service, 140.
Suit against State, 40, 46, 47.
Supervisors, 10, 18, 23, 24, 35, 38, 39, 43.
Supervisors, board of, 37, 87, 99, 105.
Supervisor's warrant, 37, 39, 41, 42, 43, 45, 46, 47, 99.
Sureties, 43, 51, 92.

Taxation, 8.
Tax deed, 72, 76, 77, 82, 84, 86. See "Deed."
Tax homestead lands, 127.
Taxation, authority for, 8; principles of, M, 1. See "Assessment."
Tax Record, 67, 86, 99.
Tax Record, entry of amounts decreed, 66, 86.
Tax roll, 7, 42, 43, 47, 99.
Tax sale annual, 37, 70, 72, 78, 79, 84, 94.
Tax title, 71, 72, 73, 84, 86, 99.
Telegraph and telephone companies, 7.
Tenant, 3, 44, 72, 104.
Tenant in common, 3, 6, 72.
Tender for reconveyance, 141.
Third parties, rights of, 73, 84, 86.
Timber, standing, 2, 14, 27.
Time, 11, 29, 30, 36, 37, 43, 62, 66, 74, 78, 99.
Title, 24, 71, 72, 82.
Title of act, T.
Toll house, 7.
Township board, 36, 39.
Township bonds, 36.
Township clerk, 23, 39
Township clerk's certificate, 36, 99.
Township orders, 54.
Township taxes, items included, 36, 39, 66, 87.
Township treasurer, 41, 43, 44, 46, 47, 52, 53, 54, 55, 56, 99.
Tram railways, 8.
Trespass, 72, 77, 81, 113, 115.
Trust companies, 8.
Trustee, 3, 14, 44.

Under valuation, 24, 76.

Validity of act, 60, 66, 67, 72, 135, 143.
Valuation, 24, 27, 30, 34, 39.

Warrant. See "County Treasurer's Warrant," "Supervisor's Warrant."
Waste, 44, 70, 115.
Und. interest, 3, 6, 72, 86.

Vessels, 8.
Village president's warrant, 55.
Village taxes, 107.
Void sale, 39, 40, 77.

Water companies, 8.
Water power, 2.
Who cannot acquire title by purchase, 72, 104.
U. S. lands, 7.

Void tax, 47, 53, 55, 96.
Void tax title, 22, 73.
Voting taxes, 36, 99.

Women's Aux., U. of M., 1.
Writ of assistance, 72, 137.

FILE COPY.

Supreme Court of the United States.

OCTOBER TERM, 1903.

Office Supreme Court U. S.
FILED
APR 25 1904
JAMES H. McKENNEY,
Clerk.

No. 261.

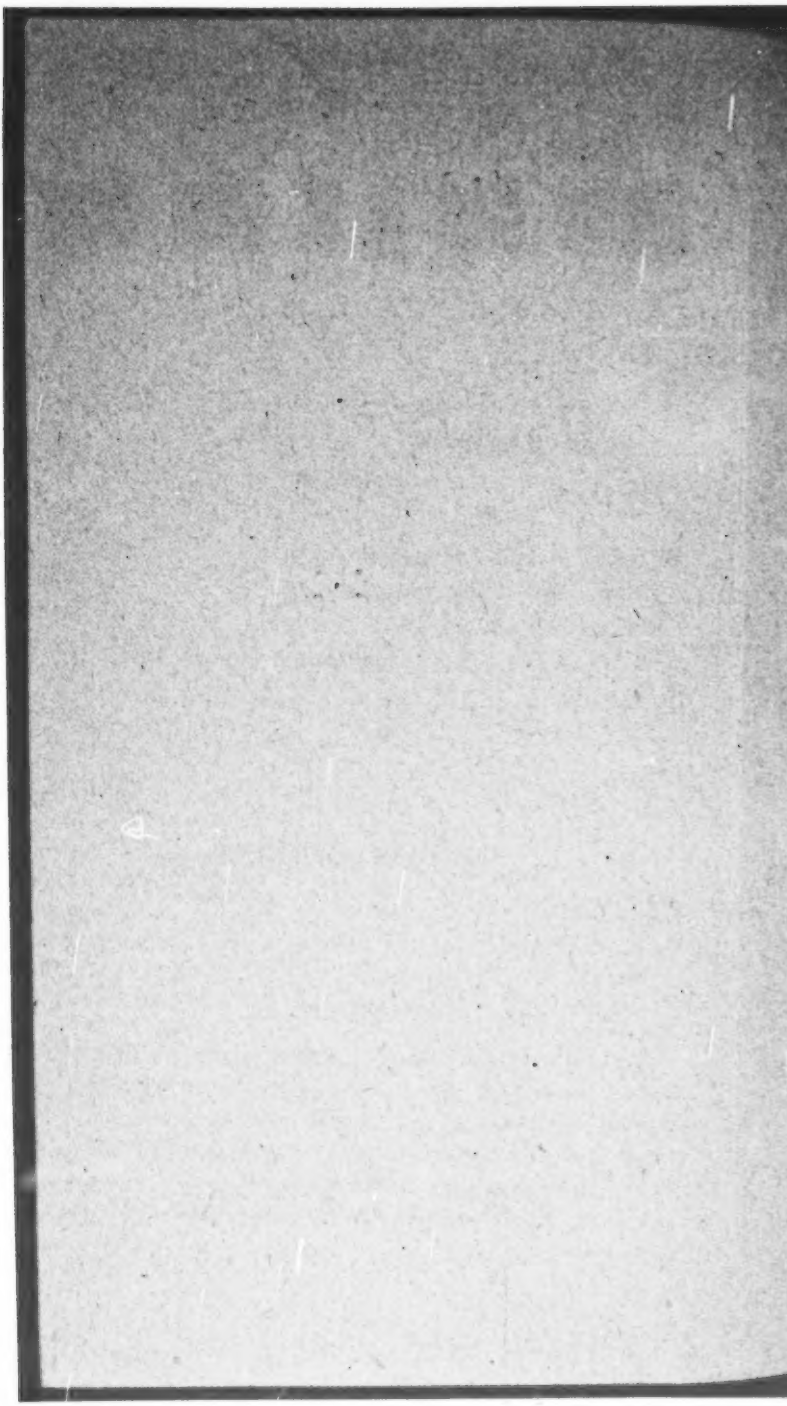
MERRITT CHANDLER,
Appellant,
vs.
ROSCOE D. DIX, Auditor General of the State of Michigan, James H. Kerr, County Treasurer of Alpena County, et al.,
Appellees.

BRIEF FOR APPELLEES.

CHARLES A. BLAIR,
Attorney General of the State of Michigan,
HENRY E. CHASE,
Deputy Attorney General,
Solicitors for Appellees.

BRIEF OF JOHN H. GOFF,
Of Counsel for Appellees.

LANSING, MICH.
ROBERT SMITH PRINTING CO., STATE PRINTERS AND BINDERS.
1904.



IN THE

Supreme Court of the United States.

MERRITT CHANDLER,

Appellant,

vs.

ROSCOE D. DIX, AUDITOR GENERAL OF THE STATE OF MICHIGAN, Et Al.,

Appellees.

BRIEF FOR APPELLEES.

Statement.

The original bill of complaint in this cause was filed in the Circuit Court for the Eastern District of Michigan, in Equity, September 19, 1900, against Roscoe D. Dix, Auditor General of the State of Michigan, the County Treasurers of the counties of Alpena, Cheboygan, Montmorency, Otsego and Presque Isle, respectively, and about fifty other defendants. Rec. p. 2.

General and special grounds of demurrer were alleged by the Auditor General and the several County Treasurers to the Bill. Rec. pp. 60 to 82. And the demurrers were allowed Jan. 6, 1902, and leave granted Complainant to amend his bill. Rec. pp. 83-84.

Afterwards, on February 5, 1902, Complainant filed amended bill, eliminating nearly all of the defendants, and the only defendants named in the amended bill are:

Roscoe D. Dix, Auditor General of the State of Michigan; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allan S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County, all in the State of Michigan and the Eastern District thereof and their successors in office. Rec. p. 85.

The Complainant in the amended bill sets forth that he is owner in fee of certain lands described in a schedule attached to the Bill (Rec. p. 85), and that the matters in dispute are the taxes assessed on said lands, and exceed in each county the sum and value of $2,000, and specifies the amount in each County, viz:—

In the County of Cheboygan.....	$11,000 00
In the County of Presque Isle.....	7,000 00
In the County of Alpena.....	25,000 00
In the County of Otsego.....	2,300 00
In the County of Montmorency.....	2,100 00

Rec. p. 85.

It is also averred that the Auditor General is the revenue agent to enforce the collection of said taxes, and that the County Treasurers are under the laws of the State charged with certain ministerial duties on the proceedings of the Auditor General. Rec. p. 87.

That the Auditor General has attempted by sales of said

lands to deprive Complainant of his title thereto. Rec. p. 95.

And that the Auditor General claims that said sales have vested the fee simple title to said lands in the State of Michigan. Rec. p. 87.

That the said lands are almost entirely wild and unimproved lands, all of which lands he claims to be in constructive possession of wh[illegible] not holding actual possession. Rec. p. 89.

The amended bill mentions the State homestead law as to tax lands, and avers that "said lands including some lands of your Orator have been so homesteaded." Rec. p. 97.

That no vested interest has been acquired in said lands by the State. Rec. p. 110.

That the value of the lands is over $50.000.00 exclusive of any lands which have been placed on the homestead list, and that said Auditor General claims to own the same. Rec. p. 111.

The Bill as amended avers the following tax laws of the State of Michigan to be unconstitutional and violative of the 14th Amendment:

1.

The tax law of 1869. Act No. 169 of Session Laws of 1869, p. 325. 1 Howell's Annoted Statutes, Sec. 1001 to 1216 inclusive. Rec. p. 85.

2.

The tax law of 1882. Act No. 9 of Public and Local Acts of Michigan, 1882, p. 7. 1 Howell's Annotated Statutes, Appendix. Rec. p. 86.

3.

The tax law of 1885. Act 153 of Public Acts of 1885, p. 175. 3 Howell's Annotated Statutes, Sec. 1169 l, to 1169 x 3. Rec. p. 86.

4.

The tax law of 1889. Act No. 195 of Public Acts of 1889, p. 230. 3 Howell's Annotated Statutes, Sec. 1170 d to 1170 l 2. Rec. p. 86.

5.

The tax law of 1891. Act No. 200 of Public Acts of 1891. Rec. p. 86.

6.

The tax law of 1893. Act No. 206 of Public Acts of 1893. 1 Compiled Laws of 1897. Sec. 3824 to 3962. Rec. p. 86.

The prayer of the Bill is as follows: (Rec. pp. 111-112)—

"1. That said defendants may be required to make full and direct answer to this your Orator's Bill of Complaint, but not under oath, the answer under oath being waived.

2. That all said laws may be declared unconstitutional and void.

3. That all assessments made of said lands, all taxes levied thereon, and all sales of said lands for taxes under and by virtue of said laws may be set aside, cancelled, held for naught, and declared null and void, as a cloud upon the title of your Orator.

4. That all conveyances made in pursuance of said laws and sales thereunder may be declared null and void and ordered to be delivered up to be cancelled and in default thereof that the decree herein operate as such conveyance.

5. That your Orator's title in and to said lands may be quieted and your Orator declared the owner in fee simple thereof and entitled to possession of the same.

6. That the defendants may, by the decree of this Honorable Court, be required to yield and deliver possession if in possession of said lands described in said "Exhibit A" to your Orator, and that your Orator may have the process of

the Court in due form to obtain possession thereof, and to remove therefrom all persons hereinbefore specified as now claiming said lands and parcels thereof and all other persons claiming by, through or under them or any of them, in the event that any such persons have since the filing of the Bill of Complaint herein, gone into possession of said lands or any part thereof.

7. That the Writ of Injunction may issue out of and under the seal of the Court to the above named defendants and each of them, their attorneys, solicitors, agents, and servants, commanding them and each of them absolutely and permanently to desist and refrain from committing any waste upon said lands described in said "Exhibit A," from assessing said lands or levying any taxes thereon against your Orator under said laws, and from selling or attempting to sell said lands for said taxes or taking any other or further proceedings under said laws, in regard thereto, and from selling, conveying, encumbering or otherwise disposing of said lands or any parcel or part thereof or interest therein, and that in the meantime, they may be so restrained until the further order of this Court.

8. Prayer for general relief.

Perry F. Powers, Auditor General of the State of Michigan, filed a demurrer to the Amended Bill, and to the demurrer he attached an affidavit that he was the "Auditor General of the State of Michigan, successor in office of Roscoe D. Dix, one of the above named defendants." Rec. pp. 122-123.

The demurrer alleged the following grounds:—

"1. That the complainant hath not in and by his said amended bill made or stated such a case as entitles him in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said amended bill or of any such matters.

2. The complainant is not entitled upon said bill to the

relief he prays for because he had a plain and adequate remedy at law.

3. It does not appear in and by said amended bill that the matter in dispute exceeds the sum of two thousand ($2,000) dollars exclusive of interest and costs.

4. It appears upon the face of said bill that the complainant has been guilty of gross laches in regard to the matters therein set forth.

5. It appears by the said amended bill of complaint that this suit is in effect a suit against the State of Michigan.

6. An amended bill of complaint will not lie against the successor in office of Roscoe D. Dix, auditor general of the State of Michigan."

Demurrers were filed by the several County Treasurers, setting forth the same grounds of demurrer, as set forth in the demurrer of the Auditor General, excepting the 6th ground, which was that the County Treasurer was improperly joined as a defendant. Rec. pp. 124-125-127-129-131.

The general demurrers and that grounded upon the exemption of the State from liability were sustained. Rec. p. 133.

The opinion of District Judge Swan (Rec. p. 134), gives the reasons for dismissing the Bill.

Assignment of Errors.

Errors are assigned as follows by Complainant:—

"1. That the United States circuit court for the eastern district of Michigan, northern division, in equity, erred in sustaining the demurrer interposed by the defendants and defendants in error to the original bill of complaint filed in said cause.

2. That said circuit court erred in dismissing the said bill of complaint of complainant and plaintiff in error.

3. That said circuit court erred in not entering a decree for said complainant and plaintiff in error upon the pleadings in said cause." Rec. pp. 135-136.

ARGUMENT.

While the Bill states (Rec. pp. 86, 87) that the "disposition of your Orator's lands and of all taxes and alleged tax claims and tax titles against your Orator and his said lands are now governed by the provisions of said Tax law of 1893 as amended," it is nevertheless a matter of law that notwithstanding the Tax Laws of 1869, 1882, 1885, 1889 and 1891 have been in part repealed, all of them remain in force for many purposes, and for the protection of all rights gained thereunder, as will be seen by reference to the repealing sections of the succeeding tax laws. Matters of law are not admitted by demurrer.

Finney v. Guy, 189 U. S. 335; 23 S. C. R. 558.

Tax Law of 1869.

The tax law of 1869 and many other laws as to taxation were repealed by Act No. 11 of 1882. The repealing act states that "the same all are hereby repealed, so far as relates to the future assessment of taxes and the steps to collect the same. They remain in force only for the completion of all proceedings heretofore begun for the collection of taxes, except as otherwise provided by law, and for the protection of all rights gained thereunder, and conveyance of land heretofore sold or that may hereafter be sold, and all actions commenced and now pending under the provisions thereof."

Public and Local Acts of 1882, Act No. 11, p. 43.

Tax Law of 1882.

The tax law of 1885 repealed the law of 1882 in so far as it contravened the law of 1885. We quote the repealing section.

"Sec. 124. All acts or parts of acts in anywise contravening any of the provisions of this act are hereby repealed, but such repeal shall in no manner affect any rights which may have accrued under such acts or parts of acts."

Public Acts of 1885, Act No. 153, p. 210. Sec. 124.
3 Howell's Annotated Statutes, Sec. 1169 x 3 p. 2935.

Tax Law of 1885.

The tax law of 1889 repealed the tax law of 1885 so far as it contravened the law of 1889. We quote the repealing clause.

"Sec. 113. All acts or parts of acts in any wise contravening any of the provisions of this act are hereby repealed, but such repeal shall in no manner affect any rights which may have accrued under such acts or parts of acts, but the same shall remain in force for the completion of all proceedings heretofore begun for the collection of taxes, except as otherwise provided herein."

Public Acts of 1889, Act 195, Sec. 113, page 268.
3 How. Ann. Statutes. Sec. 1170 l 2.

The Tax Law of 1889.

The tax law of 1889 was repealed in 1891, and we quote the repealing section, omitting provisos.

"Sec. 111. Act 195, laws of 1889, being an act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore or hereafter levied, and all acts or parts of acts in anywise contravening any of the provisions of this act are hereby repealed, but such repeal shall in no manner affect any rights which may have accrued, or may hereafter accrue under such (acts) act or parts of acts."

Public Acts of 1891, Act No. 200, Sec. 111, p. 321.

The Tax Law of 1891.

The tax law of 1891 was repealed in 1893, and we quote the repealing section.

"Sec. 126. That act number two hundred of the public acts of eighteen hundred and ninety-one, entitled "An act to provide for the assessment of property and the levy of taxes thereon, and for the collection of taxes heretofore and hereafter levied, and to repeal act number one hundred and ninety-five of the session laws of one thousand eight hundred and eighty-nine, except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July seventh, eighteen hundred ninety-one, and all other acts and parts of acts in anywise contravening any of the provisions of this act, be and the same is hereby hepealed: Provided, That such repeal shall not destroy or affect any rights which may have accrued or may hereafter accrue under such acts or parts of acts while the same were in force."

Public Acts of 1893, Act No. 206, Sec. 126, p. 406.

Further Protection of Rights.

Rights of the State or persons which had accrued under previous laws, were protected by the law of 1893. The law of 1893 contained the following section:

"Sec. 125. All rights which may have accrued to any person, as well as all rights which have accrued or become vested in any individual, corporation, municipality, or the State, under any of the heretofore existing tax laws of the State which have been amended, modified, changed or repealed, shall not be affected, changed or destroyed, but the same shall remain in force, subject to review and enforcement in the courts of this State, and for the completion of all proceedings heretofore begun for the collection of taxes or the enforcement of all the requirements of such laws."

Public Acts of 1893, Act No. 206, Sec. 125, p. 406.
1 Compiled Laws of 1897, Sec. 3948, p. 1252.
Muirhead v. Sands, 111 Mich. 487-490.

1.

One cause alleged in the demurrer is that this is in effect a suit against the State of Michigan.

Rec. pp. 122-124-126-127-129-131.

We think an examination of the tax laws will lead to the conclusion that this is in effect a suit against the State.

The Tax Law of 1869.

Under the tax law of 1869, all property, real and personal, not expressly exempted, was subject to taxation.

Session Laws of 1869, p. 325, Sec. 1.

Property was assessed as of the second Monday of May in each year, Sec. 7, and the assessment was reviewed on the third Monday of May of each year, on which day any person might appear and be heard as to his assessment, Sec. 20, and at the October session of the Board of Supervisors, that board examined the rolls and equalized the value of the real estate in the several townships. Sec. 27. The township treasurer received the tax roll. Sec. 36. The taxes became by law a lien on real estate from the first Monday in December. The warrant for the collection of taxes was returnable to the County Treasurer on or before the first day of February then next. Sec. 37.

Transcripts of lands delinquent for taxes were returned to the Auditor General, during the month of March, Sec. 68. In July the Auditor General was required to make out a list of delinquent lands and interest to the first day of October, together with cost of advertising, postage and expense of sale, and returns thereof and conveyances. Sec. 78.

This statement was required to be published with a notice of sale to take place on the first Monday of October. Sec. 82. County Treasurer made the sales of delinquent lands on the day fixed for the sale.

It becomes important to note the disposition of the lands in case no bidders appeared at the tax sale. We quote in full upon this point, sections of the original act of 1869.

"Sec. 87. If any parcel of land cannot be sold to any person for the taxes, interest and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same for the State."

"Sec. 88. All lands bid off for the State, as provided in the last preceding section, shall continue liable to be taxed in the same manner as if they were not the property of the State, and such taxes shall be a charge upon such lands."

1 Session Laws of 1869, Act 169, Secs. 87-88, p. 355.

Provision is also made in a preceding section, as follows:—

"Sec. 84. On the day designated in the notice of sale, the several county treasurers, under the direction of the Auditor General, shall commence the sale of those lands on which the taxes shall not have been paid as aforesaid, and shall continue the same from day to day (Sundays excepted), until so much of each parcel thereof shall be sold as shall be sufficient to pay the taxes, interest, and charges thereon: Provided, That every description of land embraced in said notice, which has been bid off to the State at a previous sale, and which remains unredeemed or otherwise disposed of, shall be bid off to the State by said County treasurers; and any sale made in contravention of this proviso shall be absolutely void and of no effect."

1 Session Laws of 1869, Act 169, Sec. 84, p. 355.

The County Treasurer under section 87 above quoted, bids off the land to the State. Redemption by the owner may be had on or at any time previous to the 30th day of September, next succeeding the sale. Sec. 93. If no redemption takes place, the State if the proceedings were regular, becomes the absolute owner of the land.

Auditor General v. Monroe Co. 36 Mich. 75 (1877).
Auditor General v. Saginaw Co. 62 Mich. 597 (1886).

In the case of Auditor General vs. Monroe Co. supra, the theory and practice of State taxation previous to 1869 were discussed by the Supreme Court. The case arose on an ap-

plication for mandamus to compel the County to raise a State tax to refund a loss on lands which the State had bid off and called State tax lands. Justice Campbell delivering the opinion, said at p. 75:

"The law assumes that the tax sales have been valid, and that the county has therefore levied all the taxes it was required to levy, and that these have been satisfied by payment of sale."

The case of Auditor General v. Saginaw Co. supra, involved a settlement of accounts between the County and the State. Justice Sherwood writing for the Court, said p. 597:

"The State purchases and holds under sales made for taxes in the same manner as individuals."

That such lands were regarded by the Legislature as the property of the State, may also be seen in that portion of the law of 1869 which provided for exemptions. Sec. 5. The following property shall be exempt from taxation, viz:

* * * * *

6. "All the property of the United States and of this State except lands bid off to the State at tax sale, except as hereinafter provided."

1 Session Laws, 1869, Act 169, Sec. 5, Sub. 6, p. 327.

The result of an examination of the law of 1869, definitely shows that the State of Michigan obtains the title to land bid in by it if the proceedings were in accordance with law. Excepting where the proceedings were open to attack for jurisdictional defects, such as payment of the tax, or because the land was not subject to taxation, or had not been assessed as provided, as set forth in Sec. 164, the State even if it obtained no title on the sale still retained its lien created by Section 40 of the Act of 1869, and could transfer that lien to a purchaser, and the purchaser could recover the

legal taxes from the owner, in case the owner brought ejectment and recovered judgment against the purchaser.

We quote the section in full:

"Sec. 165. If any conveyance made by the Auditor General pursuant to a sale made for non-payment of taxes, shall prove to be invalid and ineffectual to convey title, for any other cause than such as are enumerated in the preceding section, the lien which the State had on such land for its rightful proportion of taxes for State, county, township, and all lawful purposes, shall remain in full force, and shall be transferred by such deed to the grantee and vested in him, his heirs and assigns, who shall be entitled to recover from the owner of such lands the amount of such legal taxes, together with all the lawful charges, with interest at twenty-five per cent. from the date of such sale, and also the amount of all subsequent taxes paid by the person holding such title from the Auditor General, with like interest; and such claim shall be a lien upon such lands, and the same shall be bound for the payment thereof; and, in case judgment shall be rendered against the person holding title from the Auditor General, as aforesaid, for the recovery of such land, in any action of ejectment, or other action, either at law or in equity, the court shall ascertain the amount due to the party holding such tax deed, for principal and interest, and for all improvements made by him on such lands, and shall decree the payment thereof within such reasonable time as may be determined by such court; and in default of such payment, shall decree that such lands be sold therefor, or sufficient thereof to pay the account (amount) of such improvements, principal and interest, due to the party having such Auditor General's deed: Provided, That there shall be (no) right of redemption of such property after the date of sale."

1 Session Laws of 1869, Act 169, Sec. 165, p. 378.
1 How. Ann. Statutes, Sec. 1167.

That judgment must be recovered before the purchaser can enforce his lien is settled by the decision of the State Court in several cases.

Tillotson v. Circuit Judge, 97 Mich. 585.

In the case of Tillotson v. Circuit Judge, supra, tax titles for taxes of 1874, 1876 to 1880 had been adjudged invalid in ejectment, and while the Court held that the proceedings to enforce the lien must be on the equity side of the court, yet it was held at p. 588:

"The proper proceeding in these cases was established in Weimer v. Porter, supra. It was there held that in the ejectment suit the tax title must be adjudged against the defendant before he can enforce a lien upon the premises for the taxes paid, and that the right to prosecute or litigate the claim for subsequent taxes is postponed until the rendition of the judgment, and that a supplementary proceeding must be instituted on the equity side of the court. The contention of the respondent is that the amount of the lien should be fixed in this proceeding, and that, after that is fixed in the suit at law, the proceeding in equity must be instituted. We think the entire proceeding must be in chancery, under that decision, which was again approved in Ellsworth v. Freeman, supra."

We think it clearly appears that under the law of 1869 when lands were bid off to the State, and the lands were exempt from taxation, or were not assessed, or the taxes had been paid, or other jurisdictional defects existed, the State would not obtain much by the bid. If no jurisdictional defects existed, but irregularities existed, and the lands were bid to the State, the State retained its lien, and could transfer the same, and if the lands were lawfully taxed, and proceedings regular, and the State bid off the land, the State after the time for redemption expired, became the owner of an absolute title.

The Tax Law of 1885.

Omitting for the present a reference to the law of 1882, the tax law of 1885 may be referred to in order to ascertain how lands were disposed of at tax sales, in the absence of individual purchasers. The taxes levied under the Act of 1885 were made a lien on real estate, and the lien continued until payment thereof.

Public Acts of 1885, Act 153, Sec. 26, p. 185.

Sec. 62 of Act 153 of the Public Acts of 1885, is a transcript of section 87 of Act 169 of Session Laws of 1869, hereinbefore quoted in full, with the addition of a proviso, which is as follows:—

"Provided, That from and after the passage of this act, if the treasurer of any county shall, for any reason, fail to offer the lands lying therein and advertised as for sale for delinquent taxes thereon, then so many of the lands so advertised as shall not be so offered for sale shall be considered and treated as if bid off for the State by the county treasurer, and shall be subject to redemption and sale, in the same manner, and within the same time as may be provided by law in the case of lands actually bid off for the State, as is provided in the first clause of this section."

Public Acts of 1885, page 194.

It may also be noted that Sec. 63 of Act No. 153, of the Public Acts of 1885 is a transcript of Sec. 88 of Act 169 of the Session Laws of 1869. We have hereinbefore quoted in full section 88 of Act of 1869.

Lands bid off to the State under the law of 1885, were considered by the Legislature as property of the State, as ap-

pears by the section relative to exemption, which was as follows:

"Sec. 3. The following property shall be exempt from taxation:

First, All public property belonging to the United States, to this State, or to any county, city, village, township, or school district within this State, save lands purchased at tax sales, and still held by the State."

Public Acts of 1885, Act 153, p. 176.
3 How. Ann. Statutes, Sec. 1169 l 2.

Tax Law of 1882-1889.

The tax law of 1882 and 1889 made the taxes levied on real estate a lien thereon, which continued until payment thereof.

Public Acts of 1882, Act 9, Sec. 26, p. 16.
Public Acts of 1889, Act 195, Sec. 26, p. 240.

The tax law of 1882 changed the method of procedure in relation to sales of lands for delinquent taxes, and provided for a petition in chancery to enforce the lien, and for a decree. This was also the law of 1889. The petition prayed a decree against the lands in favor of the State of Michigan, and the decree was in favor of the State.

Public Acts of 1882, Act 9, Sec. 53-54-57-58, pp. 23-25.
Public Acts of 1889, Act 195, Sec. 52-53-56-57, pp. 249-251.

In case the lands could not be sold, the County Treasurer was required to "bid off the same in the name of the State for

the use of the State, County and town in proportion to taxes, interest and charges due each," and the County Treasurer was required to enter in the tax record, the word "State" opposite each parcel bid off in the name of the State. It was also further provided that "all lands bid off in the name of the State shall continue liable to be taxed in the same manner as *if they were not the property of the State.*"

Public Acts of 1882, Act 9, Sec. 63, p. 27.
Public Acts of 1889, Act 195, Sec. 62, p. 254.

The Tax Law of 1891.

The tax law of 1891 made the taxes on real estate a lien thereon, which was to continue until payment thereof. It also provided for a petition in chancery for a decree in favor of the County, in which the lands were situated, and the decree was in favor of the County, in case the taxes were valid.

Public Acts of 1891, Act 200, Sec. 52-56, 57, pp. 302-306, 307.

At the sale under the decree if the lands could not be sold, the county treasurer was required to "bid off the same in the name of the State for the State tax, interest thereon, and costs and charges for the use of the State," and he was required to enter in the tax record the word "state" "opposite each parcel bid off in the name of the State," and it was further provided that "all lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State."

Public Acts of 1891, Act 200, Sec. 62, pp. 309-310.

There was evidently an omission in the law, as will be seen by an examination of section 80 and 81a, which were as follows:—

"Sec. 80. Any person may purchase any State tax lands of such county treasurer by paying therefor the amount for which the same was bid off to the State with interest on the same at the rate of one per cent per month from the date of sale."

"Sec. 81a. Upon the payment to the county treasurer as aforesaid, he shall execute to the purchaser, a deed conveying all right, title and interest of the State or county to said tax lands acquired by virtue of the original sale or sales to the said State or county."

Public Acts of 1891, Act 200, Secs. 80-81a, p. 314.

What became of the County tax and the township tax, seems not to have been decided. The Legislature hastened at the next session in 1893 to correct the omission, and amended Sec. 62 above cited, by an addition thereto. We give the addition in italics.

"The County Treasurer shall bid off the same in the name of the State for the state tax, interest thereon and costs and charges for the use of the State, *and in such case the county, township, school and other taxes assessed on such lands so bid off to the State shall remain a lien upon said lands, and any person or persons who shall afterwards purchase such lands of the State as state tax lands or otherwise, shall be liable for and shall pay to the County Treasurer, all taxes then remaining unpaid and assessed against such lands, together with interest thereon at the rate of six per cent. per annum from the time said lands were returned delinquent for taxes until the time of such sale.*"

Public Acts of 1893, Act 16, Sec. 62, p. 15.

Section 80 was also amended to read as follows:—

"Sec. 80. Any person may purchase any State tax (land) lands of such county treasurer by paying therefor the amount for which the same was bid off to the State with interest on the same at the rate of one per cent per month from the date of sale, together with the other taxes remaining a lien on such lands at the time of the sale aforesaid with the interest thereon at the rate provided for in this act."

Public Acts of 1893, Act 16, Sec. 80, p. 18.

The tax law of 1891 treated lands bid off to the State as the property of the State, as will be seen by reference to the provision as as to exemptions.

"Sec. 3. The following property shall be exempt from taxation:

First, All public property belonging to the United States, to this State, or to any county, city, village, township, or school district within this State, save lands purchased at tax sales and still held by the State."

Public Acts of 1891, Act 200, Sec. 3, p. 281.

The Tax Law of 1893.

The law of 1893 made taxes on real estate a lien thereon to continue until payment thereof.

Public Acts of 1893, Act 206, Sec. 40, p. 372.
1 Compiled Laws of 1897, Sec. 3863, p. 1209.

This also provided for a petition in chancery to enforce the lien and the petition prayed for a decree in favor of the

State, and the decree was in favor of the State of Michigan and against the lands, if the taxes were valid.

Public Acts of 1893, Act 206, Sec. 60-61-66-67, pp. 380-381-384, 385.

Lands were to be bid off in the name of the State, and the word "state" was to be placed opposite each parcel bid off in the name of the State.

Public Acts of 1893, Act 206, Sec. 70, p. 389.

By this Act of 1893 it was also provided that "all lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State, except as hereinafter provided."

Public Acts of 1893, Act 206, Sec. 70, p. 390.

Lands bid off to the State were regarded as the property of the State, as will be seen by reference to the exemptions.

"Sec. 7. The following real property shall be exempt from taxation":

* * * * *

"2. All public property belonging to the State of Michigan, except licensed homestead lands, part paid lands held under certificates, and lands purchased at tax sales, and still held by the State."

Public Acts of 1893, Act 206, Sec. 7, p. 355.

This examination of the tax laws of 1869, 1882, 1885, 1889, 1891 and 1893 as to lands bid off to the State and held by the State, shows, we submit, that the state owned them abso-

lutely, after redemption expired. In any case, the State held whatever interest passed by the sale. That interest, because of defects might be nothing more than the lien which was originally created by each law respectively. Such is the holding of the Supreme Court of Michigan.

Conn. Mutual Life Ins. Co. v. Wood. 115 Mich. 444, (1897).

The facts in this case can be stated in connection with the tax law. Two parcels of lands were assessed and taxes levied thereon in the year 1891. This assessment was of course, under the law of 1891. The warrant to the Township Treasurer, under the law of 1891, required him to make return to the County Treasurer, on or before February first, 1892.

Public Acts of 1891, Act 200, Sec. 28, p. 294.

Under this same act of 1891 if the taxes remained unpaid one year from the first day of July next after the return of the lands to the County Treasurer, the lands became subject to sale. Under that law the County Treasurer could have filed his petition in July of 1893.

Public Acts of 1891, Act 200, Secs. 51-52, p. 302.

The Act of 1893, however, took effect June 12, 1893, which was before the County Treasurer had a right to file a petition.

Public Acts of 1893, Act 206, Sec. 137, p. 409.

The title to the Act of 1893, shows that it was for the "collection of taxes heretofore * * * levied."

Public Acts of 1893, p. 354.

It was provided that, "In the disposition and sale of such delinquent tax lands the people of the State of Michigan shall be deemed to have a valid lien upon such lands, with all the rights to enforce the same as a preferred or first claim upon such lands, and the rights and choses to enforce such lien shall be held and construed by all the courts of this State as the *prima facie* rights of the State, and shall not be set aside or annulled except in the manner and for the causes herein specified."

Public Acts of 1893, Act 206, Sec. 60, p. 381.

The petition and decree for the taxes was therefore necessary under the law of 1893, and the sale under that law for the taxes of 1891, would occur in December of 1893.

The statement of the case, page 445, shows that the lands were bid off to the State at the tax sales of 1893, for the taxes of 1891. In the mean time the taxes of 1892 had been levied while the State was holding the bid for the lands. In 1894, the Auditor General included in his petition for decree and sale of lands for taxes of 1892, the same lands. In March of 1897, the Insurance Company filed its petition to set aside the sales, alleging among other things that the law of 1893 was violated by the Auditor General in that he had wrongly included said lands in his petition of 1894. The part of the law relied on was as follows:

"Lands hereafter bid off in the name of the State, and thus held, shall not be included in said petition."

Public Acts of 1893, Act 206, Sec. 61.
Conn. Mut. Life Ins. Co. v. Wood, 115 Mich. 445-6.

It was contended on the part of the State and also the other respondents, that the word lands did not mean the lands and the title thereto, but only such interest as the State had acquired by former sales, and that only that interest was excluded by the law from the petition. The question was thus squarely presented to the Court as to what interest the State took in lands bid in by it and after redemption had expired. Chief Justice Grant after rehearing, delivering the unanimous opinion of the Court said at pp. 447-448:

"After able arguments by several eminent counsel, several exhaustive briefs, and a careful examination by ourselves, we again reach the same conclusion stated in the former opinion.

1. Counsel for the defendants now seek to sustain their position by applying a restricted meaning to the word "lands" in the statute. They insist that it does not mean the lands and the title thereto, but only such interest as the State has acquired by former sales, and that only that interest is excluded from the petition. This contention cannot be maintained. The term has a well defined meaning. There may be cases where, in instruments or in laws, other language may be used, showing that a term is used in a restrictive sense. We, however, find no language in this statute which can be construed into a restriction of the well understood term "lands." "In law, 'land' signifies any ground forming part of the earth's surface which can be held as individual property, whether soil or rock, or water covered, and everything annexed to it, whether by nature, as trees, water, etc., or by the hand of man, as buildings, fences, etc." Cent. Dict. When the lien given by the statute is foreclosed by the court in chancery, the evident purpose is to convey to the State or to the private purchaser the absolute title in fee, a title which completely destroys the original one. It is of no significance that the State does not bid in the land for speculative purposes, or that it acquires no possessory rights

therein. or that it remains liable to taxation for successive years. When the lien is foreclosed, the land sold, and the time of redemption expired, the State or the private purchaser owns the complete title in the land, or it owns nothing. The law may preserve the lien in case the title is held void, but that does not affect the quantity of the title conveyed, which is the entire or nothing."

It is clear we think from the laws and decisions of the State Court that the State obtains after bidding off lands and after the redemption expires, title or color of title to the lands, and no officer of the State has any interest therein. One especial branch of the tax law may be examined in this connection, and that is the portion thereof relating to homesteads, which is mentioned in the Amended Bill, (Rec. p. 97).

The tax homestead law was first incorporated in the tax law of 1893, and the section which we wish to call attention to. is as follows:—

"Sec. 127. Whenever it shall hereafter appear that any lands delinquent for taxes have been bid off to the State for a consecutive period of more than three years, and that no application has been made to redeem or purchase the same, it shall be the duty of the Auditor General and the Commissioner of the State Land Office, when requested so to do by the township board of the township wherein such delinquent lands are situated, to cause an examination of such lands to be made as soon as practicable, to ascertain their value, and the cause of the non-payment of taxes thereon, and if it shall appear that such lands are barren, swamp or worthless lands, and have been abandoned by the owner, upon a certificate being filed by the examiner to that effect, the Auditor General is hereby authorized to make a transfer by deed of the same to the State, as to an individual. as provided in this act, which deed shall be recorded in the proper county and a copy filed in the office of the Commissioner of

the State Land Office, and said commissioner shall thereafter hold such lands as State lands subject to sale as hereinafter provided."

Public Acts of 1893, Act 206, Sec. 127, p. 406.
Amended,—
Public Acts 1895, Act 154, p. 301, Sec. 127.

Said section 127 as amended in 1899, declares among other things that after lands have been delinquent for any five years, and have been sold to the State for taxes of more than one year, and certain other conditions exist, "the title to the State shall be deemed absolute in and to said lands."

Public Acts of 1899, Sec. 127, Act No. 107, p. 151.

It appears from this section 127, that the Auditor General is required to deed these lands to the state "as to an individual," and the Commissioner of the State Land Office holds such lands as State Lands subject to sale. And under section 130, the County Treasurer receiving a list of the lands, required to notify the Board of Supervisors "that such lands belong to the State and are no longer taxable." And under section 131, such lands are made subject to homestead entry. There is thus no question that the State gets a deed of these lands.

The Supreme Court of the State of Michigan has decided that the State is prima facie the owner of lands deeded to it under said section 127.

Semer v. Auditor General, 95 N. W. Rep. 732 (1903).

In Semer v. Auditor General, supra, a Bill was filed by the owner of the original title against the Auditor General and others, alleging among other things that the certificate had been filed that the lands had been abandoned, and had been bid off by the State for more than three consecutive years, and had been deeded to the State by the Auditor General, and application made to enter same as a homestead. The prayer of the bill was that the taxes be set aside, deed declared void, homestead entry invalid, and statute unconstitutional. A demurrer to the Bill was based on Sec. 131, and was by the Circuit Court in Chancery overruled, but the Supreme Court reversed the lower court and sustained the demurrer. Chief Justice Hooker, delivering the opinion of the Court said, at page 733, N. W. Rep:—

"This land was prima facie the property of the state; and while, if its title was invalid, the true owner might controvert it, he was in no way concerned with what disposition the state should make of the land, if it was valid, especially, as it could transfer no better title than it had."

Recurring again the title of the State to lands bid off by it, it will be seen that the Supreme Court of the State is consistent in holding that the State takes title.

Allen v. Cowley, 128 Mich. 530. (1901).
Auditor General v. Improvement Co. 129 Mich. 182. (1901).

Allen v. Cowley, supra, was a case where plaintiff brought replevin for logs which he had cut on state tax lands, but which had been taken from his possession by defendant. The Sheriff had sold the logs under warrant from the Auditor General. The defendant was a purchaser at the Sheriff sale of the logs, and judgment was rendered for defendant. Justice Hooker delivering the opinion of the Court said, p. 532:

"On the face of the testimony the court was not in error in sustaining the tax proceedings for 1893, and he might have added that title to the land was in the State.

The title to the land being in the State, it was the lawful owner of the timber thereon, and the plaintiff was a trespasser in cutting it. It did not become his by such cutting; nor was the original owner able to convey title to him, because she had no title, it having been divested by the sale for taxes, whereby her interest vested in the State absolutely after the expiration of the period for redemption. The defendant purchased and paid for the title of the State through proceedings intended to conform to a statute authorizing it."

Auditor General v. Improvement Co., supra, involved the exemption from taxation of land which had been bid off to the State, and had been deeded to the State by the Auditor General, although they had not been bid off to the State for a consecutive period of more than three years. Justice Moore speaking for the Court said p. 187:

"It is very probable that, if the title of the State had been questioned in a direct proceeding, under the case of Connecticut Mut. Life Ins. Co. v. Wood, 115 Mich. 450 (74 N. W. 656), it would have been held invalid; but the record does not disclose that any steps have been taken by the former owners to vacate the decrees under which the State obtained title, and no effort may ever be made by any person having the right to do so to question the title of the State. The title, then, to these lands being in the State, was it not competent to exempt them from assessment?"

The Supreme Court of the State also holds that the statute of limitations runs against the state upon lands bid off to the State at a tax sale.

Chamberlain v. Ahrens, 55 Mich. 111.

It is this prima facie title of the State of Michigan to the lands in question which the Complainant asks to have declared void, and asks that he may be declared the owner thereof in fee simple.

The suit is therefore in effect a suit against the State. It has been said that this is not a suit against the State, because the State is not a party to the record.

Osborn v. Bank, 9 Wheat, 738 (1824).
Bank v. Hastings, Walker's Chancery, p. 9.
Bank v. Hastings, 1 Douglass, Mich. p. 225 (1844).

There is language used in the case of Bank vs. Osborn, supra, which furnishes some basis for the argument advanced, but that case we submit is not now followed.

Exparte Ayres, 123 U. S. 443.

In the Ayres case, the Attorney General of the State of Virginia, was a party to the record. In that case Mr. Justice Mathews, delivering the opinion of the court said:

"It must be regarded as the settled doctrine of this Court established by its recent decisions, that the question whether a suit is within the prohibition of the eleventh amendment, is not always determined by reference to the nominal parties on the record."

The State Supreme Court in the case of Bank v. Hastings, 1 Douglass (Mich.) 241, critically examines the case of Bank v. Osborn, and follows it. We shall hereafter show that the Michigan Supreme Court does not now follow Bank v. Osborn.

Examination of the Bill of Complaint as amended in the case at bar, will we believe show that no personal act on the part of the Auditor General or the respective County

Treasurers is alleged. It is alleged that County Treasurers are charged with certain ministerial duties in the proceedings of the Auditor General for the collection of taxes. Rec. p. 5, par. 5.

It is alleged that the defendants are enforcing the tax law as valid. Rec. p. 111, par. 62.

We submit that there is no allegation in the Bill that the defendants or any of them are in actual occupancy of the lands in question, or any of them. The allegations are to the contrary. It is alleged that "the said lands consist almost entirely of wild and unimproved lands, from many of which the timber has been entirely or partially removed; all of which said lands he claims to be in constructive possession of, where not holding actual possession."

Rec. p. 89, par. 13.

We submit that if the Complainant is holding actual possession of any of the lands, then the defendants cannot be said to be in possession thereof, and if the Complainant is in constructive possession of all of which he is not in actual possession, then the defendants cannot be said to be in possession thereof, because constructive possession can only exist in a person where there is no adverse, actual possession. The allegation therefore is resolved into the statement that the lands are vacant where not in the actual possession of the Complainant.

A construction of this allegation in the Bill, which should make it aver that the defendants were in actual possession, would render the Bill of no effect, because in such case there would be a remedy at law.

Pursuing the examination further as to the personal acts of the defendants, we note that it is averred that that the Auditor General claims that the said sales have vested the title to said lands in the State of Michigan.

Rec. p. 87, par. 9.

Certainly this is no personal claim to the land. Notwithstanding the taxes on these lands have not for many years

been paid, and sales thereof have been made to the State, yet the State has not in any way interferred with the actual possession of the Complainant, and has not trespassed thereon, although title is claimed to be in the State. There is an argumentative allegation in the bill that the defendants are trespassers, wherein it is said that the Auditor General and the County Treasurers "asserting any rights or claiming any title or attempting or threatening to do so under the provisions of said laws, are trespassers."

Rec. p. 110, par. 58.

The word "trespassers" is given a new meaning in regard to land by this allegation. Originally, according to Blackstone, "It signifies no more than an entry on another man's ground, without a lawful authority, and doing some damage, however inconsiderable to his real property."

The bare statement of the Auditor General that these lands belong to the State without any attempt to take possession or to dispossess the Complainant is not such a trespass as injunctions are issued to prevent, and involves no personal violence or wrong on the part of the defendants.

The allegation in the bill, Rec. p. 111, Sec. 65 that the Complainant fears the Auditor General will sell the lands, does not aver any threatened wrong, because conveying the land to private persons, would enable the Complainant to take measures not prohibited by the eleventh amendment. One branch of the prayer of the Bill is for an injunction against the defendants commanding them and their agents to desist from assessing the lands. Neither the Auditor General nor the County Treasurers are assessing officers in the State of Michigan. The Bill itself avers that the Supervisor makes the assessments. Rec. p. 91, par. 17. The Supervisor is a constitutional officer.

Const. of Michigan, Art. XI, Sec. 1.

Such a suit as the present has been held by the Supreme Court of Michigan to be a suit in effect against the State, and it was held such a suit could not be maintained in the State Court.

Burrill v. Auditor General, 46 Mich. 256. (1881).

In this case of Burrill v. Auditor General, supra, it will appear that Counsel for the Complainant therein cited Osborn v. Bank, supra, and Bank v. Hastings, supra, in support of the contention that a Court could pass on the claims of the State where they are incidental to a suit against a state officer.

The other Justices concurring, Justice Graves, delivered the opinion of the Court as follows: p. 257,—

"This case comes up on an appeal against a decree made in the Circuit Court in chancery for the county of Saginaw dismissing complainant's bill. The end sought by the cause is to quiet complainant's title as against the title obtained by the State under sales of the lands for several years for unpaid taxes. The objection which is insisted on against the title acquired by the State is that the assessor's certificate was in each year fatally defective.

The lands are vacant and the Auditor General is entirely passive, and in no event could he meddle with them except as authorized by law. The right the State holds in the lands is not subject to litigation in this way. The law has not commissioned the Auditor General to represent the State for any such purpose.

What is contemplated is to annul the title derived to the State through the tax proceedings, and the suit is virtually therefore against the State itself. But we fail to find that it has consented to be made a litigant in this matter in regard to any land to which it claims title.

This is not a case where tax proceedings are still going on

and a claim is made that they are tainted with fraud, or that some officer has either acted in an unauthorized or illegal manner or is about doing so.

It is one where the proceedings have been allowed to culminate in sales to the State and where the tax title cannot be contested and set aside unless the State consents to become a litigant for the purpose of the controversy and points out the officer to be made a party. The State's title to any other vacant lands could with equal propriety be forced into controversy in chancery without its assent.

The want of jurisdiction is clear.

The decree is right and must be affirmed with costs.

The other Justices concurred."

The case of Burrill v. Auditor General, supra, was cited in the case of Auditor General v. Saginaw Co. Supervisors, 62 Mich. 597 (1886), the Court saying:

"The State purchases and holds under sales made for taxes in the same manner as individuals. A bill cannot be upheld against the Auditor General to annul the title of the State obtained at a tax sale, for the reason that he has never been authorized by the statute to represent it for that purpose."

In the case of McElroy v. Swart, et al., 57 Mich. 500, (1885), the bill showed that a lumberman had cut timber on state lands, and sold the same to one Minor, and the State Trespass agent was averred to have obtained from Minor under misrepresentations and threats, some money and two promissory notes, running to the State Land Commissioner. The bill prayed that the collection of notes might be enjoined, and the same cancelled. Defendant Partridge answered that he was State Land Commissioner and Swart was State Trespass agent, and he Partridge had received the notes in his official capacity, and turned them over to the State Treasurer. The bill was dismissed in the Circuit Court, and the case was affirmed in the Supreme Court.

Justice Sherwood, stating, p. 504: "The State is substantially the defendant."

Justice Campbell, said p. 505: "I concur in the result as I do not think any bill could lie to reach funds of the State in the hands of the proper officers."

Cooley, C. J. concurred.

The case of Burrill vs. Auditor General, supra, was decided in 1881, over ten years after the passage of the tax law of 1869, and it is probable the rights of the State arose under that law. A comparison of the case of Burrill v. Aud. General, supra with the one at bar will show the cases to quadrate.

1.

In the Burrill case the lands were vacant. In the case at bar the lands are wild, and are averred to be in the actual or constructive possession of the Complainant.

Rec. p. 89, par. 13.

2.

In the Burrill case the Auditor General was said to be passive. Yet under the law of 1869, the Auditor General was required to sell to applicants any unsold state tax lands.

Session Laws of 1869, p. 368, Sec. 128.

State tax lands were not exempted as we have shown from taxation, and taxes were levied on them, and they were sold from year to year, under the law of 1869.

The Complainant in the case at bar brings himself under the law of 1869, because he says, Rec. p. 87, par. 8, "some proceedings were taken under the General Tax Law of 1869." And again in the same paragraph 8, the Complainant mentions purported assessments "for various years from and including the year 1878."

We have therefore in the case at bar, lands held by the State bid off under the law of 1869, and succeeding laws. The rights of the State in those lands have been preserved. The Auditor General however is just as passive under the present tax law of 1893 as under the Tax law of 1869.

The contention that the present suit is a suit against the State, is supported by the case of Smith v. Reeves, 178 U. S. 436.

In Smith v. Reeves, supra, suit was brought against the defendant "as treasurer of the State of California" to recover taxes paid by the receivers of a railroad who were dissatisfied with the assessment. Mr. Justice Harlan, delivering the opinion of the court said:

"Is this suit to be regarded as one against the state of California? The adjudged cases permit only one answer to this question. Although the state, as such, is not made a party defendant, the suit is against one of its officers as treasurer; the relief sought is a judgment against that officer in his official capacity; and that judgment would compel him to pay out of the public funds in the treasury of the state a certain sum of money. Such a judgment would have the same effect as if it were rendered directly against the state for the amount specified in the complaint."

In the case at bar, the suit is brought against Roscoe D. Dix, Auditor General of the State of Michigan and certain County Treasurers, "and their successors in office." There is no averment that any of these defendants are claiming any personal interest in the land. It is on the contrary expressly averred that the Auditor General claims the tax sales have vested the fee simple title of the lands in the State of Michigan.

In some way or other therefore, the title of the State is sought to be divested, and it is difficult to see how the State can be deprived of its property when it is land, any more than it can of its property consisting of cash which has been paid to its State Treasurer.

The prayer of the Bill by what it omits as much as what it contains, shows that the idea of a suit against the State may have forced itself on the mind of the pleader.

Rec. p. 111-112.

The general rule is that equity jurisdiction is in personam. The statute of the State of Michigan, relative to quieting title follows, the general rule in equity. It provides that if the Complainant establishes his title to the lands "the defendant shall be decreed to release to the complainant all claims thereto."

1 Comp. Laws, 1897, Sec. 448.

In view of the general rule, in equity, we should expect ordinarily to find in the bill a prayer that the defendants convey and release to Complainant, not their claims, because they make no claim, but the title of the State, or that a trustee be appointed to convey the title of the State, but such a prayer would present very clearly that the suit was against the State, and the prayer in substance, is that the title of the state be annulled by a decree, and the action seems to be in rem according to the prayer.

The jurisdiction of equity courts in this regard is discussed by this Court in the case of Hart v. Sansom, 110 U. S. 151. Mr. Justice Gray delivering the opinion of the Court said:

"Generally, if not universally, equity jurisdiction is exercised *in personam*, and not *in rem*, and depends upon the control of the court over the parties, by reason of their presence or residence, and not upon the place where the land lies in regard to which relief is sought. Upon a bill for the removal of a cloud upon title, as upon a bill for the specific performance of an agreement to convey, the decree, unless otherwise expressly provided by statute, is clearly not a judgment *in rem*, establishing a title in land, but operates

in personam only, by restraining the defendant from asserting his claim, and directing him to deliver up his deed to be canceled, or to execute a release to the plaintiff. Langd. Eq. Pl. (2d Ed.). §§ 43, 184; Massie v. Watts, 6 Cranch, 148; Orton v. Smith, 18 How. 263; Vandever v. Freeman, 20 Tex. 334. It would doubtless be within the power of the State in which the land lies to provide by statute that if the defendant is not found within the jurisdiction, or refuses to make or cancel a deed, this should be done in his behalf by a trustee appointed by the court for that purpose. Felch v. Hooper, 119 Mass. 52; Ager v. Murray, 105 U. S. 126, 132. But in such a case, as in the ordinary exercise of its jurisdiction, a court of equity acts *in personam*, by compelling a deed to be executed or concelled by or in behalf of the party. It has no inherent power, by the mere force of its decree, to annul a deed or to establish a title."

II.

The State of Michigan has never unreservedly consented to be sued, and has not consented as we hope to show, to be sued in equity in the Courts of the United States.

Under Act 169 of Session Laws of 1869, Sec. 133, the Auditor General might be made a defendant in ejectment. The tax law of 1893 now in force, contains a similar provision, and we quote that part relating to the consent of the State.

"Sec. 86. In all cases where it shall become necessary, in the prosecution of an action of ejectment by any person holding an adverse claim to any lands hereafter bid in for the State as provided in this act, the Auditor General may be defendant."

Public Acts of 1893, p. 395, Sec. 86.
1 Comp. Laws 1897, Sec. 3909.

The present suit however is not an ejectment suit, and is not within the statute. In 1899 an amendment to the tax law of 1893 was passed, requiring the Auditor General to be a party defendant in actions in State courts to set aside sales for delinquent taxes on lands held as state tax lands.

The section as amended, is as follows:

"Sec. 144. The Auditor General shall be made a party defendant to all actions or proceedings instituted for the purpose of setting aside any sale or sales for delinquent taxes on lands held as State tax lands, or which have been sold as such or which have been sold at annual tax sales, or for purpose of setting aside any taxes returned to him and for which sale has not been made; in all such cases a copy of the bill of complaint or petition shall be served upon the prosecuting attorney at the time of commencing the action, who shall send a copy thereof within five days to the Auditor General, which said service shall be in lieu of the service of process. Upon so being made a party, it shall be the duty of the Auditor General, whenever he shall, in his discretion, deem the same to be expedient, to the end that the State of Michigan may be fully protected, to cause the Attorney General to represent him in such proceedings. In any suit or proceedings instituted for the purposes in this section mentioned, no costs shall be taxed against either party to the action.

This act is ordered to take immediate effect.

Approved June 1, 1899."

Public Acts of 1899, Act 97, Sec. 144, p. 140.

This Act furnishes, we submit, no authority for a suit in the United States Court against the Auditor General, as can be seen upon an analysis of the Act.

First.—The Act compels an owner of the original title although he may be in possession, who institutes an action

to set aside a sale for delinquent taxes, on lands held as state tax lands "or which have been sold as such" to make the Auditor General a party defendant. Now, when State tax lands are sold by the State, the sale conveys the title and interests of the State derived through the sale.

Public Acts of 1893, p. 394, Sec. 84.
1 Comp. Laws, 1897, Sec. 3907.
Public Acts of 1899, p. 431, Sec. 84.

Second.—It requires the service of a copy of the bill of complaint upon the prosecuting attorney at the time of commencing the action;

Third.—It requires the prosecuting attorney to send a copy thereof to the Auditor General, and provides that such service shall be in lieu of the service of process;

Fourth.—The act denies costs to all parties. "No costs shall be taxed against either party to the action."

The act thus requires as a party defendant the Auditor General to represent the State, even though the state has no title or claim, and does not give a warranty deed. It substitutes the service of a copy of the Bill or petition, which ex vi terminorum, is filed in equity, in lieu of service of subpoena, and it requires the substituted service to be made on the prosecuting attorney at the time of commencing the action, and denies costs.

The Supreme Court and circuit and district courts of the United States, have the power to regulate the whole practice to be used in suits in equity.

1 U. S. Comp. Statutes, Sec. 917,
And the statutes of the United States allow taxed costs.
1 U. S. Comp. Statutes, Sec. 823-824.

It follows from the above that the act confers no jurisdiction on United States Courts in equity. As was said in the case of Smith v. Reeves, 178 U. S. 436, "A federal court can neither take nor surrender jurisdiction except pursuant to the constitution and laws of the United States."

The case of Smith v. Reeves, supra, is similar in some aspects to the case at bar and was a suit in California against a state treasurer. A statute of the state was relied upon to sustain jurisdiction. That statute provided that a suit might be brought against the state treasurer to recover taxes paid. It provided for service of process and required the attorney general to defend the action. It provided that the treasurer might demand that the action be tried in the *Superior court of the county of Sacramento.*

The attorney general demurred to the complaint and moved to dismiss the case for want of jurisdiction in the circuit court. The demurrer was sustained with leave to amend and motion to dismiss was denied. An amended complaint was filed, but a demurrer to it was sustained and no further amendment being made the action was dismissed by the circuit court.

The Supreme Court of the United States held that the suit was against the State of California and that there was a want of jurisdiction, and affirmed the order dismissing the complaint. The court said among other things:

"It is quite true the state has consented that its treasurer may be sued by any party who insists that taxes have been illegally exacted from him under assessments made by the state board of equalization. But we think that it has not consented to be sued except in one of its own courts. *This is not expressly declared in the statute, but such, we think is its meaning.* The requirement that the aggrieved tax payer shall give notice of his suit to the comptroller, and the provision that the treasurer may at the time he demurs or answers 'demand that the action be tried in the superior court of the county of Sacramento,' indicates that the state

contemplated proceedings to be instituted and carried to a conclusion only in its own judicial tribunals. If a circuit court of the United States can take cognizance of an action of this character, the right given to the treasurer by the local statute to have the case tried in the Superior court of Sacramento county would be of no value; for, as the jurisdiction and authority of a circuit court of the United States depends upon the constitution and laws of the United States, it could not refuse to take cognizance of the case if rightfully commenced in it, and to proceed to final decree, nor could it, merely in obedience to the laws of the state, transfer it to a state court upon the demand of the state treasurer. A federal court can neither take nor surrender jurisdiction except pursuant to the constitution and laws of the United States."

There is a slight basis for the contention that the State has consented to be sued, to set aside the determination of the Auditor General and Commissioner of the State Land Office, as to tax homestead lands, and as the complainant alleges in the Bill that some of his lands have been "homesteaded, that is, placed on the homestead list," (Rec. p. 97), some consideration is due to this allegation. Such suit to set aside such determination must however be brought in the Circuit Court for the County of Ingham.

Under the tax law of 1893 as amended in 1899, when lands are delinquent for taxes for five years, and have been bid off to the State for the taxes of more than one year, and are held by the State, and no application has been made to pay, purchase or redeem, the lands for taxes, and time for redemption has expired, and no action is pending to set aside the taxes or remove the cloud, and the lands are unoccupied by the person having the record title, then in such case the lands are deemed abandoned, and the statute declares that the "title to the State shall be deemed absolute in and to said lands." The Auditor General and the Commissioner of the State Land Office are to cause an examination to be

made of the lands, and are required to make a finding and determination.

The statute further provides:—

"The finding and determination of the Auditor General and the Commissioner of the State Land Office shall show:

First, A description of said lands;

Second, The years for which they have been returned delinquent for taxes;

Third, The time or times bid off to the State, and the taxes for which said bid was made;

Fourth, Whether said lands are occupied or abandoned;

Fifth, Whether or not any suit is pending in the county where said lands are situated to set aside the taxes, or any of them, or to remove the cloud occasioned thereby.

The determination of the Auditor General and Commissioner of the State Land Office in that regard shall be deemed to be conclusive as to the facts therein stated, unless suit is instituted to vacate the same within six months, as hereinafter provided. Within ninety days after such determination the Auditor General shall make a transfer by deed of all lands so determined by the Auditor General and said Commissioner of the State Land Office to come within the provisions of this section to the State of Michigan as to an individual, as provided in section seventy-two of this act so far as said section is applicable. Said deed or deeds shall be delivered to the Commissioner of the State Land Office, who, after having said deed or deeds recorded in the register of deeds office, of the county where the lands are situated, shall file the same in his office. *Upon the execution and delivery of said deed or deeds to the Commissioner of the State Land Office, said Commissioner shall hold said lands as State lands,* subject to the provisions hereinafter contained."

Public Acts of 1899, page 152, Sec. 127.

The same section 127 however expressly provides, "Any suit instituted for the purpose of setting aside the determination aforesaid may be commenced in the Circuit Court of the County of Ingham."

Lansing, the Capitol is in Ingham County, and the reason for fixing upon the Circuit Court of that County as the Court in which action might be brought, was probably because the law department of the State and the books, records, and papers in the offices of the Commissioner of the State Land Office, are there located. We contend it is clear that the statute confers no jurisdiction on United States Courts as to tax homestead lands.

In any case, all lands on the homestead list, have according to said Sec. 127 as amended, been deeded to the State and are now under the control of the Commissioner of the State Land Office, and the defendants, in this suit, have no concern as to homestead lands. Whatever the construction of the statute as to the consent of the State to be sued as to tax homesteads, there can be no jurisdiction obtained as to the lands when the Commissioner of the State Land Office is not a party.

That the Auditor General and the other defendants have no control over or official connection with tax homestead lands appear from the statute, and the decision thereon of the Supreme Court. Under the statute the abandoned lands are deeded to the state by the Auditor General "as to an individual."

Public Acts of 1893, Act 206, Sec. 127.
Public Acts of 1899, Act 107, Sec. 127.

Said section 127 as amended in 1899 further provides: "Upon the execution and delivery of said deed or deeds to the Commissioner of the State Land Office, said Commissioner shall hold said lands as state lands, subject to the provisions hereinafter contained."

The Supreme Court of the State in 1902 passed upon these sections quoting them in part, in a suit where the Commissioner of the State Land Office asked for a writ of prohibition to prohibit the Auditor General from cancelling deeds issued under the homestead provisions of the tax law, and it was held the Auditor General had no control over such lands.

State Land Office Com. v. Auditor General, 91 N. W. Rep. 153.

Even if in this case, all the tax statutes appeared to be unconstitutional, which is not at all conceded, the contention still remains that this is a suit against the State.

State of Louisiana v. Steele, 134 U. S. 230.

The question whether or not this is in effect a suit against the State of Michigan, may be raised by demurrer.

Ill. C. R. Co. v. Adams, 180 U. S. 28.

Want of Equity in the Bill.

Moot Questions.

There is no equity in abstract, academic, or moot questions, and it has been held that the duty of the Court is limited to determining rights of persons or of property, which are actually controverted in the particular case before it.

Williams v. Hagood, 98 U. S. 75.
Tyler v. Judges, 179 U. S. 405.

Applying the above rule to the allegations of the bill, several questions are eliminated.

Board of State Tax Commissioners.

The Board of State Tax Commissioners is attacked in the Bill.

Rec. p. 98, par. 28, sub. 6a to 6n.

The Board was not created until in June, 1899, a short time before the filing of the original bill herein.

Public Acts of 1899, Act 154, p. 227.

No showing in particular is made in the Bill that this Board has interfered with Complainant or his property, and the act creating the Board has been declared constitutional.

Board of State Tax Commrs. v. Board of Assessors, 124 Mich. 491.
Board of State Tax Commrs. v. Quinn, 125 Mich. 128.

National Banks.

Rec. p. 105, par. 43.

The connection of complainant with a national bank, or moneyed capital is not shown in the Bill, and the allegation as to the taxation of stock of national banks, raises only a

moot question. There is no discrimination in the law against national banks.

Public Acts of 1893, p. 359, Sec. 14, Sub. 3.

Non-Residents.

Rec. p. 109, par. 55.

Complainant is a resident of the State, and if the allegation be true that non-residents are taxed higher than residents, complainant has not been injured.

Situs of Personal Property.

Rec. p. 92, par. 22.

Complainant alleges that personal property under the tax law is assessed,—

1. At the residence of the owner.
2. At the situs of the property.
3. At the destination thereof.

Complainant points out none of his personal property which has been "assessed variously". A state can fix the situs of personal property.

Columbus Southern Ry. Co. v. Wright, 151 U. S. 470.

Bristol v. Washington Co., 177 U. S. 133.

Western Assur. Co. v. Halliday, 126 Fed. Rep. 257.

Curative Provisions.

Rec. p. 95, par. 27.

Complainant does not point out in the Bill any particular notice, form or record of which he has been deprived by the curative provision of the tax law. Allegations of law are not admitted by demurrer, and the State Supreme Court construes the curative section so that it does not deprive any tax payer of a hearing and does not cure jurisdictional defects.

Auditor General v. Chandler, 108 Mich. 569.
1 Comp. Laws, 1897, Sec. 3922 and notes.

Discrimination.

Rec. p. 96, par. 28.

Section 19 of Act 206 of Public Acts of 1893 is alleged to discriminate against property and individuals, and it is averred that Banks and other corporations can deduct their indebtedness from the gross amount of their personal property, while an individual can only deduct his debts from his credits.

This Sec. 19 which is Sec. 3842 of Compiled Laws of 1897 was declared unconstitutional by the Supreme Court in February, 1901, but it was held that the tax law was valid, and property could be taxed under Sec. 3831 of Compiled Laws of 1897.

Public Acts of 1893, p. 356, Sec. 8.
Citizens St. R. Co. v. Common Council, 125 Mich. 673-694.

Redemption.—Penalty.

Rec. p. 105, par. 46.

An attack is made upon the tax law of 1893 because the amendment of 1897 permits an additional time to a land holder to retain his real estate by paying to the holder of the tax deed, the sums he paid to the State on purchasing the tax title, and 100 per cent additional.

Cheever v. Flint Land Co., 96 N. W. Rep. 933.
Public Acts of 1897, Act 229.
Public Acts of 1899, Act 204.

This provision of the law does not concern complainant, because he avers in the Bill that "no third person has by reason of said taxes acquired any right" to any of said lands.

Rec. p. 108, par. 52.

Complainant can buy of the State without paying the 100 per cent.

Public Acts of 1899, Act 262, p. 431.

Moreover there is no right of redemption from a tax sale, except as permitted by statute.

Dumphey v. Hilton, 121 Mich. 315.
Kelly v. Sanders, 99 U. S. 441.

Credit of State.

Rec. p. 105, par. 45.

The constitution of the State provides: "The credit of the State shall not be granted to or in aid of any person, association or corporation."

1 Compiled Laws 1897, p. 115.
Art. XIV. Sec. 6.

It is claimed that the tax law violates the constitution, and we quote what we think is alleged as obnoxious:

"If a sale made under this act is set aside by any court or is canceled by the Auditor General as provided in this act, the Auditor General shall refund to the purchaser the amount paid at the time of the sale, with interest thereon at the rate of six per cent per annum from the time of the purchase to the time when said sale was set aside or canceled, out of the general fund of the State. In such case the Auditor General shall charge back to the county all taxes and the interest and charges thereon for all years for which it has been held that the taxes were invalid or the description erroneous, but for all years for which no invalidity has been found he shall proceed to enforce the collection of the taxes for all years refunded as herein provided, as in the case of taxes for which sale has not been made."

Public Acts 1899, Act 262, Sec. 73, p. 430.

This subject is classed with moot questions, because it is no concern of the complainant that the State returns to a purchaser of tax lands, his money and interest when the tax title is held void. The credit of the State has nothing

to do with the matter. Before the amendment of 1899 the Supreme Court had considered the statute.

Auditor General v. Patterson, 122 Mich. 39.

Complainant also avers that "no third person has, by reason of said taxes, acquired any right" to said lands. Rec. p. 108.

Method of Sale.

Rec. p. 104, par. 39.

It is averred that the method of sale of land may result in a purchaser becoming a joint owner with complainant. Allusion is probably made to the statute, requiring the sale to be made to the person "paying the full amount charged against such parcel and accepting a conveyance of the smallest undivided fee simple interest therein."

Public Acts 1893, p. 388, Sec. 70.
Public Acts 1897, p. 286.

Complainant shows no personal interest in this particular, because no undivided portion of the lands has been bid to the State, and no third person has acquired any rights in the land.

Rec. p. 108, par. 52.

Sale of State Tax Lands.

Rec. p. 104, par. 40.

We submit that the allegation that the owner of the original title should have a preference in the purchase of lands bid to the State involves no question for a Court.

Alleged Lack of Uniformity of Tax Laws.

Rec. p. 105 to 108, par. 47-48.

The tax law of 1893 is attacked in the bill upon the alleged grounds that there are different methods of assessment and collection of taxes, and sale of lands, which prevail in different cities and villages, and the Grand Rapids charter is referred to, and several sections quoted.

It is provided in the tax law of 1893, as follows:—

"In cities where some special provision is made for demand or collection of taxes, the collector or treasurer shall comply with such special provision, otherwise be bound by the provisions of this Act."

Public Acts of 1893, p. 374, Sec. 46.

It is further provided:—

"This act shall be applicable to all cities and villages when not inconsistent with their respective charters."

Public Acts of 1893, p. 401, Sec. 107.

The charter of Grand Rapids is found in the Local Acts of 1897, commencing at p. 387. The matter of taxation for general purposes is under Title VIII, p. 461-475, covering

42 sections. Sec. 1 provides for a Board of Assessors. Sec. 2 requires the Board before the first Monday in April in each year to assess all real and personal property within the corporate limits at its "true cash value," and make assessment rolls. Sec. 4, provides for review and appeal. Secs. 5 and 6 provide for review by Common Council and confirmation of rolls, and these rolls "remain as the basis for all taxes to be levied and collected until another assessment." Under section 10 the Council determines the amount to be raised for municipal purposes, and the board of assessors assess the amount as provided in Sec. 11, which requires copies of the assessment rolls to be made, and the taxes are ratably assessed on "The City Tax Rolls", and if taxes are delinquent on lands, the provisions quoted in the Bill apply. Rec. p. 106 citing Secs. 21-22-23 of the charter. The sale of lands for delinquent City taxes is not under any decree of a Court, and this is made the basis of Complaint. Rec. p. 107, Sec. 47.

Now, under Sec. 35 p. 474, it is made the duty of the Board of Assessors to make copies of all assessment rolls as confirmed, and upon them to "ratably assess the State, County and school taxes as provided by the general laws of the State," and as there is nothing in the charter as to these last above mentioned taxes inconsistent with the State law, the provisions of the State law apply, and delinquent State, County and school taxes, are necessarily returned to the Auditor General.

The assessment or valuation of all property in the City of Grand Rapids is at its true cash value. The charter makes no discrimination. The assessment is uniform with the assessment throughout the State.

The municipal and State and County taxes are ratably levied, and there is absolute equality. The difference between the charter and the general tax law is that as to delinquent city taxes. The City Treasurer advertises and

sells the land without any decree of a court, and the proceedings are completed by a deed signed by the Mayor.

But the law permits the City authorities to provide for judicial procedure for collection of City taxes. We quote the provision of law in this regard:

"The authorities of any city or village which, by its charter. has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands. Such sale shall be made on petition filed in behalf of the City or village in interest, and shall conform, as near as practicable, to the provisions as to sale in this act: Provided, That whenever any lands are offered at such sale that have been bid to the State at any tax sale made under the provisions of any general tax law, and upon which such bid or bids remain undischarged, any sale made of such lands at the city tax sale shall be conditioned upon the payment of the tax lien held by the State on said land, and the sale so made shall be void if the tax lien held by the State shall remain unsatisfied."

Public Acts of 1897, p. 262.
1 Comp. Laws of 1897, Sec. 3931.

It is not pointed out in the Bill how the charter violates the State Constitution. The provisions of the tax law of the State in Sec. 107 quoted above will be found in every tax law providing for judicial procedure.

Public Acts of 1882, p. 35, Sec. 95.
Public Acts of 1889, p. 265, Sec. 96.
Public Acts of 1891, p. 318, Sec. 93.
Public Acts of 1893, p. 410, Sec. 107.

During all these years the Supreme Court of the State has discovered no violation of the Constitution. It has enforced charter rights of tax payers in a city as to sessions of Board of Review, when the charter and general law were different.

Common Council v. Smith, 99 Mich. 507.
Aud. Genl. v. Sessions, 100 Mich, 343.

Charters where they are inconsistent with the general law, operate with equality and uniformity on all property within the corporate limits and all owners thereof, and there is we submit no violation of the 14th Amendment.

Bowman v. Lewis, 101 U. S. 22.

Bowman v. Lewis, supra, was a case arising in the State of Missouri. By the constitution and laws of Missouri an appeal lay to the Supreme Court of that state from the final judgment or decree of any circuit court, except the circuit courts of St. Charles, Lincoln, Warren and St. Louis, and the city of St. Louis. For the last mentioned counties and city, the constitution established a separate court of appeal called the St. Louis court of appeals, to which was given exclusive jurisdiction of all appeals from the writs of error to the circuit courts of those counties and of said city. From the St. Louis court of appeals an appeal was allowed to the Supreme Court only in certain cases where the amount exceeded the sum of $2,500, and other cases not necessary to be mentioned. No appeal was given to the Supreme Court in a case like the Bowman case arising in the counties referred to and in the city of St. Louis, but a similar case arising in the circuit courts of any other county would be appealable directly to the Supreme Court. It was claimed that this feature of the judicial system of Missouri was in

conflict with the fourteenth amendment of the constitution of the United States, because it denied to suitors in the courts of St. Louis and the counties named the equal protection of the law. It was held by Justice Bradley, delivering the opinion of the court, that the true ground on which the case arose was the undoubted power of the state to regulate the jurisdiction of its own tribunals for the different portions of its territory in such manner as it saw fit, subject only to the limitations therein before referred to.

In delivering the opinion, Justice Bradley among other things said:

"There is nothing in the constitution to prevent any state from adopting any system of laws or judicature it sees fit for all or any part of its territory. If the state of New York, for example, should see fit to adopt the civil law and its method of procedure for New York City and the surrounding counties, and the common law and its method of procedure for the rest of the state, there is nothing in the constitution of the United States to prevent its doing so. This would not, of itself, within the meaning of the fourteenth amendment, be a denial to any person of the equal protection of the laws. If every person residing or being in either portion of the state should be accorded the equal protection of the laws prevailing there, he could not justly complain of a violation of the clause referred to, for, as before said, it has respect to persons and classes of persons. It means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and under like circumstances. The fourteenth amendment does not profess to secure to all persons in the United States the benefit of the same laws and the same remedies. Great diversities in these respects may exist in two states separated only by an imaginary line. On one side of this line there may be a right of trial by jury, and on the other side no such right. Each state prescribes its own modes of judicial proceedings.

* * * Where part of a state is thickly settled, and another part has but few inhabitants, it may be desirable to have different systems of judicature for the two portions,—trial by jury in one, for example, and not in the other. * * * It would be unfortunate restriction of the powers of the state government if it could not, in its discretion, provide for these various exigencies."

Retrospective Laws.

Rec. p. 109, par. 54.

It is averred that the tax laws of 1889. 1891 and 1893, in so far as they purport to operate retrospectively, are unconstitutional. It is claimed that these laws impose terms, conditions, penalties and procedure, not imposed by the laws which were repealed.

The State Supreme Court holds that interest may be increased, and period of redemption shortened.

Webster v. Auditor General, 121 Mich. 668.
Muirhead v. Sands, 111 Mich. 488.

A State may adopt new remedies, and apply them to taxes already delinquent, and a statute is not in conflict with the constitution because it is retroactive.

League v. State of Texas, 184 U. S. 156.

Injunction and Appeal.

Rec. p. 110, par. 57.

Complainant avers that he is denied relief, except as it is found in Sec. 70. Public Acts 1893, p. 388. But Section 70

follows Section 66, which allows any person to file objections to any tax and have a hearing, and under Sec. 79, he can file objections to confirmation of sale. He has full opportunity for defense.

The Supreme Court has held that the Legislature had constitutional authority to take away remedy by injunction.

Eddy v. Township of Lee, 73 Mich. 123.

The right of appeal is purely statutory.

Ex parte McCurdle, 7 Wall. 506.
Sullivan v. Haug, 82 Mich. 548.
Public Acts of 1893, p. 385, Sec. 67.

Curative Provisions of Tax Laws.

Rec. p. 95, par. 27.

It is alleged that the curative provisions of the tax laws prejudice Complainant, and contravene the State and National constitution, and as construed by the Court, deny a hearing to the tax payer.

The curative section of the law of 1893 is to be found in Public Acts of 1893, page 399, Sec. 99, or 1 Compiled Laws, 1897, Sec. 3922, p. 1243.

The Supreme Court of the State has held that jurisdictional defects are not covered by the curative provisions.

Caledonia Township v. Rose, 94 Mich. 218.
Benedict v. Aud. General, 104 Mich. 269.

Many cases of fatal defects in tax proceedings are given in the notes to 1 Compiled Laws, 1897, Sec. 3922.

Petition of Auditor General.

Rec. p. 96, par. 28, Sub. 3.
Rec. p. 102, par. 35, Sub. 17.

It is averred that the Auditor General violated the tax law of 1893 by including in his petition for decree and sale, lands of complainant held on State bids.

The law provides, "Lands hereafter bid off in the name of the State and thus held shall not be included in such petition."

Public Acts of 1893, p. 381, Sec. 61, Amended.

This averment does not show a denial by the State of any rights of the Complainant. Under the law as construed by the Supreme Court, the Complainant could have appeared and made his defense or even moved to set aside the sale.

Conn. Mut. Life Ins. Co. v. Wood, 115 Mich. 444.

The proceedings in this respect have been held not subject to collateral attack in an exhaustive opinion of the Supreme Court.

Savings Bank v. Ward, 118 Mich. 87.
Hoffman v. Pack Woods & Co., 123 Mich. 74.
Munroe v. Winegar, 128 Mich. 309.

Munroe v. Winegar, supra, was a case where the holder of a tax title filed a bill to quiet his title, and it was held that this question could not be raised.

The tax law of 1889 was attacked as unconstitutional and void.

"Because said petition does not show the jurisdictional fact that no sale of the lands described therein for non-payment of taxes has been made, as is contemplated by section 71 of the tax law of 1889."

Justice Cahill, delivering the opinion of the Court said:

"The last point made by defendant, that the petition does not state the fact, claimed to be jurisdictional, that a sale of the lands described therein has not been made, is without force. The form of the petition, so far as the facts necessary to be stated is concerned, is prescribed by section 52 of the act, and the petition in this case contains all the statutory requirements."

Auditor General v. Sloman, 84 Mich. 118.

The rule seems to be the same in the federal courts, where even if the record fails to show affirmatively jurisdiction, the judgment is not a nullity or subject to collateral attack by a party to the suit.

Dowell v. Applegate, 152 U. S. 339.

Printing.—Advertising.

Rec. p. 100, par. 30-31.

The Constitution of the State, provides as follows:—

"The legislature shall provide by law that the furnishing of fuel and stationery for the use of the state, the printing and binding the laws and journals, all blanks, paper and printing for the executive departments, and all other printing ordered by the legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof."

Constitution Art. IV. Sec. 22.
1 Comp. Laws, 1897, p. 82.

It is alleged that printing required by the tax laws is not let by contract as required by the constitution. What is required by the tax law of 1893, is found in Public Acts of 1893, p. 383, Sec. 62, 63, 65-66. Under these sections the Auditor General is required to publish in a newspaper in each county where the petition is filed, a copy of the order of hearing, and a copy of the petition containing the list of lands delinquent for taxes.

Sec. 65. provides:

"The cost of such advertising shall in no case exceed the sum of forty cents for each description of land so advertised and sold, and shall be paid by the State Treasurer, upon the warrant of the Auditor General, out of the general fund of the State."

The particular words "blanks, paper and printing for the executive departments" in the Constitution, are followed by "and all other printing ordered by the legislature."

The publication and advertising required by the statute, we submit is not ejusdem generis with blanks, paper or printing.

Reiche v. Smythe, 13 Wall. 162.
Brooks v. Cook, 44 Mich. 617.

The charge of 70 cents set up in paragraph 31 of the Bill has been sustained by the Supreme Court.

Sayers v. O'Connor, 124 Mich. 256.

Collection Fee and Interest.

Rec. p. 100-101, par. 32-33.

Complainant makes complaint that the collection fee is a double charge, and that the interest imposed on delinquent taxes is an unreasonable penalty.

The State Supreme Court has sustained an amendment to the tax law of 1893, which increased the interest on delinquent taxes.

Webster v. Aud. Gen'l, 121 Mich. 668.

Interest is a question entirely of State statute, as are also penalties and collection fees.

Morley v. L. S. & M. S. R. Co., 146 U. S. 162.
W. U. Tel. Co. v. State of Indiana, 165 U. S. 304.

Irregularities.

Rec. p. 101-2-3, par. 35, sub. 1 to 38.

Reasons for alleging the invalidity of taxes are given in par. 35 of the bill which contains 38 subdivisions. While alleging irregularities going to the amount of the tax generally, Complainant has paid none of the taxes or any part thereof. The allegations of excessive taxation, impliedly admit something due which has never been paid. Complainant cannot for this reason, we submit, claim any relief. Bank v. Marye, 24 Sup. Ct. Rep. 68. As to each and all of the said allegations, the tax laws have afforded Complainant an opportunity for relief, of which he has not availed himself. The tax law as we have shown provides for a Board of Review, for payment under protest, for a hearing, and a day in Court, and a right to present objections. Under the tax law

of 1893, a tax payer can appear before the Board of Supervisors, and the law provided, "They shall hear and duly consider all objections made to raising any such moneys by any tax payer to be affected thereby."

Public Acts of 1893, Act 206, Sec. 37.

The curative provisions of the tax statutes cover many irregularities.

Public Acts 1893, p. 399, Sec. 99.
1 Comp. Laws, 1897, Sec. 3922.

The allegations, Rec. p. 101-102-103 in subdivisions (a), (b), (c), and subdivisions 2 and 3-5-7, 10 to 15 and 19 to 38, could have been set up as a defense in the suits brought by the Auditor General.

Auditor General v. Sparrow, 116 Mich. 591 to 593.

But lack of equalization and apportionment alleged in Sub. 5 would not affect township taxes, special school taxes, road tax, bridge or building tax.

Auditor General v. Hill, 98 Mich. 326.
Auditor General v. Gurney, 109 Mich. 472.

The tax law expressly provides for adding not more than one per cent for the contingent fund to the amount of the several taxes for the purpose of avoiding fractions in computation, and the allegation in subdivision 4 of par. 35, shows no illegality.

Public Acts of 1893, p. 372, Sec. 39.

Subdivisions 8 and 9, Rec. p. 102, aver that lands have not been assessed in the name of the owner, and no warrant was attached to rolls, but such irregularities are cured by the statute.

Public Acts of 1893, p. 399, Sec. 99.
Hill v. Graham, 72 Mich. 659.
City of Menominee v. Lumber Co., 119 Mich. 201.

The purpose of the tax law under the judicial procedure acts is to foreclose the lien of the state, and have an adjudication upon the validity of taxes, and nearly all matters alleged in paragraph 35 of the Bill of Complaint were foreclosed by the decree.

Auditor General v. Sparrow, 116 Mich. 584.
Berkey v. Burchard, 119 Mich. 101-105.
Winona & St. P. Land Co. v. Minnesota, 159 U. S. 526.

Manner of Sale.

Rec. p. 104, Sec. 38-39-40.

The manner of levying and collection of taxes is wholly within legislative control.

Witherspoon v. Duncan, 4 Wallace, 210.
Del Castillo v. McConnico, 168 U. S. 674.

Equalization by Board of Supervisors.

Rec. p. 104, Sec. 41-44.

The equalization provided for by the law is alleged to deny to Complainant the equal protection of the law. There is

no discrimination however in the law. It operates on all alike, every where throughout the State. The proceedings which lead up to equalization and the equalization, are in substance as follows:—

The law as to the assessment roll does not require a specification of the articles of personal property, assessed. It would be practically impossible to comply with a requirement of such an itemized assessment. It is generally sufficient for the roll to describe personal property by the word "personal."

Public Acts 1893, p. 368, Sec. 26.

Real estate however is described in sections or subdivisions thereof, or by lots and blocks where platted.

Public Acts 1893, p. 367, Sec. 25.

The assessment of acreage property must show the number of acres. (Sec. 24.)

At the October session of the Board of Supervisors, the several rolls are examined to ascertain whether the relative valuation of the real property in the townships, wards, or cities has been equally and uniformly estimated, and the board is required to equalize the same by adding to or deducting from the valuation of the taxable property in any township such an amount as will produce relatively an equal and uniform valuation of the real property.

Public Acts of 1893, p. 370, Sec. 34.

The law contemplates an equalization with reference to real estate. It does not assume that the assessments of real

and personal property made by any supervisor, are relatively unequal or unjust, and leaves the burden or benefit of any increase or diminution made by the board in the total assessment of the township to be shared alike by both realty and personalty.

Sinclair v. Learned, 51 Mich. 343.
Boyce v. Sebring, 66 Mich. 217.

We submit that the law shows no denial of the equal protection of the law.

Walston v. Nevin, 128 U. S. 578.

Classification.

Rec. p. 105, Sec. 42.

Complainant shows no equity in his attack on the tax law charging lack of classification.

The law classifies property for taxation, into:

1. Real property.
2. Real estate exemptions.
3. Personal property.
4. Personal property exempted.

Public Acts of 1893, p. 354 to 358.

Remedy at Law.

It will be conceded we hope that the Complainant during the many years that his lands have been taxed and sold, could waive constitutional or other rights, and the query

arises, whether he could omit the exercise of rights under the tax laws until the time has passed for such exercise, and then petition for redress in equity on the ground of absence of remedy at law.

The Bill admits, Rec. p. 91, par. 17, that review of assessments was provided for by the laws, and we aver that all the tax laws gave a right of hearing as to the assessment.

1 Session Laws, 1869, p. 334, Sec. 20.
1 How. Ann. Statutes, Sec. 1020.
Public Acts of 1882, p. 13, Secs. 18, 19.
Public Acts of 1885, p. 181, Secs. 18, 19.
Public Acts of 1889, p. 237, Secs. 18, 19-20.
Public Acts of 1891, p. 289, Secs. 19-20-21.
Public Acts of 1893, p. 368, Secs. 28-29-30.

These provisions as to days for hearing and review have been held by the Supreme Court to be mandatory.

Auditor General v. Merritt Chandler, 108 Mich. 569. (Citing cases.)

The Supreme Court of the State has held that one may waive his right to appear before the Board of Review, and that he must exhaust his remedy before the Board of Review before he can be heard in the Courts.

Savings bank v. City of Detroit, 107 Mich. 246.
Savings Bank v. City of Detroit, 114 Mich. 81.
Caledonia Tp. v. Rose, 94 Mich. 218.
First Nat. Bk. v. St. Joseph, 46 Mich. 526.

In the case of Savings Bank v. City of Detroit, 107 Mich.

Mr. Justice Grant, delivering the opinion of the Court said, p. 247:

"It is unnecessary to cite the numerous authorities of this court to the proposition that boards of review are the proper tribunals for the correction of unjust assessments, and that parties will not be heard in the courts until they have exhausted their remedy before these tribunals."

In the case of First Nat'l Bank v. St. Joseph, supra, Justice Campbell, delivering the opinion of the Court said, p. 530:

"If a person does not see fit to have his assessment corrected and perfected, when it is in his power to do so, it must be assumed that a failure to complain is equivalent to an admission of correctness."

It is undoubtedly true that the supervisor, when acting as assessor, is a quasi judicial officer.

Meade v. Haines, 81 Mich. 261.

We submit however that the objection that the Supervisor under one tax law can review his own assessment roll, and under other tax laws, with two electors can act as a Board of Review, raises no federal question. This position we think is supported by the case of,

Hibben v. Smith, 24 Sup. Ct. Rep. 89.

One objection in the case of Hibben v. Smith, supra, was that assessments for a local improvement were confirmed by a board of trustees, and that the board of trustees were tax payers, and two members thereof were lot owners abutting on the improvement.

Mr. Justice Peckham delivering the opinion of the Court, said p. 91:

"The provisions of the 14th Amendment do not cover such an objection as is now under consideration. The general system of procedure for the levying and collection of taxes which is established in this country is, within the meaning of the Constitution, due process of law."

And again at p. 92, he said:

"The 14th Amendment, it has been held, legitimately operates to extend to the citizens and residents of the states the same protection against arbitrary state legislation affecting life, liberty, and property as is offered by the 5th Amendment against similar legislation by Congress; but that the Federal courts ought not to interfere when what is complained of amounts to the enforcement of the laws of a state applicable to all persons in like circumstances and conditions, and that the Federal courts should not interfere unless there is some abuse of law amounting to confiscation of property or a deprivation of personal rights, such as existed in the case of Norwood v. Baker, 172 U. S. 269, 43 L. ed. 443, 19 Sup. Ct. Rep. 187."

Payment Under Protest.

Under all the tax laws since the act of 1869, payment of taxes on real estate claimed to be illegal, could be paid under protest, and suit brought against the Township to recover the money. The tax payer was required to specify in writing the grounds of such protest.

Public Acts of 1882, Act 9, Sec. 42.
Public Acts of 1885, Act 153, Sec. 42.
Public Acts of 1889, Act 195, Sec. 41.
Public Acts of 1891, Act 200, Sec. 42.
Public Acts of 1893, Act 206, Sec. 53.
Public Acts of 1901, Act 130, Sec. 53.
1 Comp. Laws 1897, Sec 3876.

We quote the part of Section 53 of the Act of 1893, as amended in 1901, as to payment under protest:

"Sec. 53. Any person may pay the taxes, or any one of the several taxes on any parcel or description of land, or on any undivided share thereof, and the treasurer shall note across the face of the receipt in ink any portion of the taxes remaining unpaid. He may pay any tax, whether levied on personal or real property, under protest, to the treasurer, specifying at the time in writing, signed by him, the grounds of such protest, and such treasurer shall minute the fact of such protest on the tax roll and in the receipt given. The person paying under such protest may, within thirty days and not afterwards, sue the township for the amount paid, and recover, if the tax is shown to be illegal for the reason shown in such protest."

State, County and Township taxes on real estate can be recovered of the Township.

Daniels v. Township of Watertown, 55 Mich. 376.

Day in Court.

Under the judicial procedure acts for the collection of taxes, the complainant has been entitled to his day in Court to contest the validity of taxes.

Public Acts of 1882, Act 9, Sec. 57.
Public Acts of 1889, Act 153, Sec. 56.
Public Acts of 1891, Act 200, Sec. 56.
Public Acts of 1893, Act 206, Sec. 66, p. 384.

The Michigan reports contain many cases in which the rights of tax payers have been protected. It was said in the case of Chicago & A. R. Co. v. Wiggins Ferry Co., 108

U. S. 18, "The presumption in all cases is that the Courts of the States will do what the constitution and laws of the United States require." Constitutional questions can be decided in State Courts, and under the statutes of the United States, the decision of the State Court denying the constitutional rights properly pleaded, can be reviewed in the Supreme Court of the United States.

Smith v. Reeves, 178 U. S. 436.

Opportunity to buy State Tax Lands for 25 per cent of the Taxes.

In 1881, an act was passed entitled, "An Act to provide for the sale of State tax lands."

Public Acts 1881, Act 229, p. 271.

This act offered for six months state tax lands for sale to the owner of the original title on payment of original taxes and simple interest thereon at the rate of seven per cent without other charges. After six months any person could purchase on the same terms. This statute was an offer to remit the penalties, and charges and accept simple interest. The act covered all state tax lands acquired by virtue of original and subsequent sales to the State prior to 1881.

Thereafter in 1882, the judicial procedure act of 1882 was passed, which introduced a foreclosure of the lien in chancery, and with an evident desire to clear off the books of the State of state claims and titles, the Act of 1881 was amended in 1882 and four new sections added, whereby a diminishing scale of prices was fixed for state tax lands, and any person could purchase on the first day of October 1883, and for some time thereafter, state tax lands for taxes prior

to 1880 for one-fourth of the original taxes, without interest or charges.

Public Acts 1882, Act No. 7, p. 4.

Another opportunity to purchase state tax lands at auction was afforded by the tax law of 1889, which provided for the sale of lands bid off to the State for taxes of 1886 and previous years. A bid at this auction was required to be equal to 25 per cent of the amount chargeable against the land.

Public Acts of 1889, Act 195, Sec. 71, p. 257-8.

This provision of the Act of 1889 has been held valid.

Auditor General v. Bay Co. Supervisors, 106 Mich. 662-675.

Having waived all the opportunities offered by the tax laws, such as suing at law to recover taxes paid under protest, and having failed to appear and object under the judicial procedure acts, and having declined the offer of the State to sell state tax lands prior to 1881, and also prior to and including 1886, at a discount of 75 per cent, how can Complainant now invoke the aid of a Court of Equity under a statement that the laws are unconstitutional? When a party has failed to make a proper defense at law through negligence, equity will not aid him.

Hungerford v. Sigerson, 20 How. 156.

Alleged Premature Decree.

The Bill alleges Rec. p. 102, par. 35, sub. 18, "that in each of the above proceedings for the taxes of each of said years, the decree was made prematurely, and the Court thereby, if it ever had acquired, lost jurisdiction of said proceedings and the sales thereunder are entirely void."

This allegation we submit contains no fact whatever. Alleging that a "decree was made prematurely" is an averment *of a conclusion of law.* The facts making the decree premature are not mentioned.

This allegation in the bill can be imagined to be based on the provision of the tax laws as construed by the State Supreme Court, requiring five full court days to elapse in term before a decree could be taken against land. The provision is in substance as follows in three of the tax laws:

"If within the first five days after the day fixed in such notice for the hearing of such petition it shall be made to appear to the court that any person has been prevented from filing objections to any tax, without fault on his part, such further time may be granted for that purpose as may seem proper, not exceeding five days."

Public Acts of 1889, Act 195, Sec. 56.
Public Acts of 1891, Act 200, Sec. 56.
Public Acts of 1893, Act 206, Sec. 66.
Amended in other respects.
Public Acts of 1895, p. 310, Sec. 66.

The period of time was further limited by an amendment taking effect in 1899, and the law then became as follows:

"If on the day fixed in such notice for the hearing of such petition or on the day following that day, it shall be made to appear to the court that any person has been prevented from filing his objections to any tax without any fault on his

part, such further time may be granted for that purpose as may seem proper, not exceeding five days."

Public Acts of 1899, p. 436, Sec. 66.

The Amended Bill was sworn to in February, 1902.

Cases have been decided by the Supreme Court, holding decrees void which were rendered before Court had been in session five days.

Peninsular Savings Bank v. Ward, 118 Mich. 87, 92.
Youngs v. Clark, 120 Mich. 528.
McGinley v. Calumet etc. Min. Co., 121 Mich. 88.

Other cases have been decided, wherein the Court by reason of different state of facts, have decided the decrees to be valid.

Gates v. Johnson, 121 Mich. 663.
Brown v. Mining Co., 123 Mich. 117.
Brown v. Napper, 125 Mich. 117.

In Brown v. Mining Co., supra, Justice Long after quoting the law, said p. 118:

"It appears that the time fixed for the hearing of the Auditor General's petition was Tuesday, November 10, 1896. The court convened on that day, and continued to hold regular, daily sessions thereafter until and including Saturday, November 14th, and on that day adjourned until Monday, November 16th, on which day it held its session, and entered the decree upon which the sale of the land was made, and adjourned *sine die*. The landowner neither made nor filed any application for further time in which to file his

objections to the relief prayed for in the Auditor General's petition. The complainant purchased the lands at the regular annual tax sale thereafter. It is the contention of the defendant that it had five full secular days, of 24 hours each (in each of which a session of the court was had), after the day fixed for hearing the petition, in which to apply for further time to file objections, and that no decree could properly be made and entered until the sixth secular day after the hearing.

We think the case is controlled by Gates v. Johnson, 121 Mich. 663 (80 N. W. 709). There the time for hearing the petition was fixed for November 13th. The court was in session November 13th to November 17 inclusive, and adjourned until the next day, but did not appear on the next day (the 18th). The decree was made on the 23rd following. This was held a sufficient length of time for the taxpayer to present his objections, under the statute. In the present case the court was in session continuously from November 10th to the 14th inclusive, and then adjourned until Monday, the 16th, when the decree was made and entered. This was a sufficient length of time fixed by the statute."

The necessity for averring facts is illustrated by these cases. A demurrer admits only facts well pleaded. When the facts in regard to these several decrees in the case at bar appear, it may be that the opinion of the pleader that they are premature will be held to be as baseless as the contention in the case of Brown v. Mining Co., supra.

Even if sufficient facts had been averred to show under the statute a premature decree, still the lien of the State for taxes continues until the taxes are paid or extinguished.

Public Acts 1893, p. 372, Sec. 40.
Public Acts 1893, p. 380, Sec. 60.
Auditor General v. Newman, 97 Mich. 703 (1903).

Statute as to Cash Value.

Complainant avers that the legislative definition of cash value lays down a rule different from that prescribed by the constitution, and that by reason of the application of the legislative definition, his property has been assessed at a value greater than the true cash value.

Rec. p. 88, par. 11.

This averment undoubtedly has reference to the constitution of the State which requires assessments on property to be at its "cash value."

1 C. L. of 1897, p. 116.
Constitution of Michigan, Art. XIV, Sec. 12.

It also has reference to the tax laws, excluding forced or auction sales, in estimating the cash value of property.

Session Laws of 1869, Sec. 13.
Session Laws of 1869, Sec. 25.
1 How. Ann. Statutes, Sec. 1013-1025.

The tax law of 1869 above referred to required a certificate to the assessment roll, wherein the supervisor was to certify as to property assessed, that he had "estimated the same at what I believe to be the true cash value thereof, and not the price it would sell for at a forced or auction sale."

The reason for this requirement of the statute is given in two Michigan cases.

Silsbee v. Stockle, 44 Mich. 561.
Dickison v. Reynolds, 48 Mich. 158.

In Silsbee v. Stockle, supra, Mr. Justice Cooley, quoting the section of the statute above referred to, said at p. 566:

"The early statutory form did not contain the words which the supervisor has omitted (Comp. L. 1857, § 806), and the change in the form was made in a revision of the tax law in 1869. If the change in the form whereby these words were brought into it had no important purpose in view, we may well hold that the proceedings are not affected by the supervisor continuing the use of the form which had been in use before. But it is a matter of common knowledge that the change was made for the very purpose of effecting an important change in the assessments. It was notorious that supervisors had been in the practice of evading the previous law and making assessments at a mere fraction of the real value of the property, when sworn to make it at the cash value. It was very easy to excuse the evasion of duty under the pretense that the cash value of property was only what it would bring if forced upon the market; and the law was amended for the very purpose of taking away this excuse."

As the very purpose of the statute was to enforce the constitutional provision as to cash value, and as it operated over the whole state, we submit there was equal protection of the law awarded thereby to the Complainant, and he was not deprived of his property without due process of law, and that the execution of the law would not cause his property to be assessed above its cash value.

Alleged Excessive Assessments.

The Complainant makes complaint of excessive valuations of his property.

Rec. pp. 89-90, par. 14-15-16.

Excessive assessment is not generally a matter for Courts to try, as the tax laws of Michigan have all provided for a

review of the assessments by the supervisor or boards of review.

Williams v. Saginaw, 51 Mich. 120.
Brown v. Grand Rapids, 83 Mich. 101.
Township of Caledonia v. Rose, 94 Mich. 216.

In the case of Township of Caledonia v. Rose, supra, it was said by Justice Grant, speaking for the Court, at p. 218.

"This board of review is a tribunal provided by law, in which the tax-payer may appear to contest an unequal or excessive assessment. Failing to appear there, he is estopped to assail the assessment afterwards. Comstock v. Grand Rapids, 54 Mich. 641; Peninsula Iron & Lumber Co. v. Crystal Falls, 60 Id. 510; Williams v. Saginaw, 51 Id. 120; First National Bank v. St. Joseph, 46 Id. 526."

The rule in this regard is the same in the United States Courts.

Under the Act of 1893, courts will interfere in case of fraud.

Iron Co. v. City of Negaunee, 116 Mich. 430.

The allegation, Rec. p. 92, as to the assessments being fraudulent, if made in due time, could have been remedied by the State Court in equity. The Complainant however would have been required to pay in advance what was justly due.

Merrill v. Humphrey, 24 Mich. 170 (1871).
National Bank v. Kimball, 103 U. S. 732.
State R. R. cases, 92 U. S. 575.

The offer in the bill is to pay "should it hereafter turn

out that said laws are constitutional and that any sum is payable by him" etc.

Rec. p. 108, par. 49.

Prima facie the sales to the State have extinguished the taxes.

Alleged Double Assessments.

Pleonasm is used in the 16th paragraph of the Bill, (Rec. p. 90) to allege that the state constitution is in conflict with the 14th amendment. The allegation contains no equity.

The provision of the constitution of the State referred to in the Bill is as follows:

"The legislature shall provide for an annual tax, sufficient with other resources, to pay the estimated expenses of the state government, the interest of the state debt, and such deficiency as may occur in the resources."

1 Comp. Laws of 1897, p. 114.
Constitution, Art. XIV, Sec. 1.

Under the constitution an annual tax is levied for the purposes therein specified. Many people delay in paying taxes, and when the next annual estimate occurs, there is a deficiency. The State requires the ready money, and so the annual estimate will include the deficiency. The bill assumes that the levy to meet the deficiency, thus becomes "duplicate, recurring and cumulative and in effect progressive," and therein lies the error. The provisions of tax laws look to the collection of all taxes, and for many years judicial procedure has been resorted to for the collection thereof. The tax law of 1893, Public Acts 1893, Act 206, may be referred to for the purpose of showing the times when taxes may be paid.

1. From Dec. 1 to Jan. 10, one per cent only as collection fee is added.
2. From Jan. 10 to March 1, 4 per cent is added.

Sec. 44-45.

3. After March 1, any person may pay taxes, but he must pay interest at the rate of eight per cent per annum, and office charges, and 4 per cent collection fee to County Treasurer.

(Sec. 59.)

Delinquent taxes are returnable May 1, to the Auditor General. Sec. 57. Remaining unpaid for about one year, from May 1, the Auditor General prepares his petition for sale under Sec. 61, and the decree is for taxes, interest and charges. One year is allowed for redemption from sale upon payment of taxes, interest and charges.

Sec. 74.

Thus it will be seen that taxes levied in any year, say 1893, would be returned to County Treasurer, and by him to Auditor General in 1894, and thus remain subject to payment until 1895, when petition for sale would be filed, and sale would be had and redemption would expire in 1896, or as the law now is, in 1897.

Public Acts of 1899, Act 262, Sec. 70.

Thus under the system for the collection of taxes, at least three years is occupied in the collection of the taxes levied in any one year, and when the lands become State tax lands, any person can then purchase the same in any year. He must pay as the purchase price:

1. Amount for which it was bid to State.
2. Interest at 1 per cent per month.

3. Other taxes remaining a lien and returned to Auditor General.

Public Acts of 1899. Act 262, Sec. 84.

It follows from the above that in the course of years, the delinquent taxes or deficiency of any year, will be largely paid to the State, and in each year that delinquent taxes are paid, so much less will be the amount to be raised by taxation.

Taxes may sometimes become delinquent because levied on exempt property, and in such case property assessable in the same taxing district, temporarily escapes its just burden.

The construction of the constitution and laws contended for in the bill is we submit erroneous. The court will take judicial notice of the laws of the State, and a demurrer does not admit as a fact the construction attempted in the bill of the constitution and law of the State of Michigan.

Finney v. Guy, 189 U. S. 335.

Statement of Property and Demand.

The Bill alleges failure to demand statement of complainant of his property and to demand payment of taxes, and failure to seize property to satisfy taxes.

Rec. p. 91, par. 18, 19, 20.

There is no equity in these allegations. Had the Supervisor demanded a statement from complainant and received it, the Supervisor would not have been bound by it. This is the tax law of Michigan, and the State Supreme Court sustains it.

Meade v. Haines, 81 Mich, 261-264.

Bowman v. Circuit Judge, 129 Mich. 608-610.
Public Acts of 1893, Act 206, Sec. 24.
Public Acts of 1899, Act 262, Sec. 24.

Complainant could have handed a statement to the Supervisor if he so desired to do. The jurisdiction of the Circuit Court in Chancery of the several counties was not defeated by failure to demand payment or to seize personal property to pay taxes.

Conley v. McMillan, 120 Mich. 694.

Complainant has had his day in court as to all such matters.

Berkey v. Burchard, 119 Mich. 101.
Muirhead v. Sands, 111 Mich. 487-495.

In Muirhead v. Sands, supra, Justice Montgomery, delivering the opinion of the Court said p. 495:

"The statute makes the publication the equivalent of personal service, and it is therefore the duty of the owner to watch the proceedings provided for by the statute for the foreclosure of the lien, and interpose any objection he may have to the validity of the tax. The purpose of the statute is to give every person his day in court, in an equitable proceeding."

Alleged Blending of the Legislative, Executive and Judicial Powers in the Tax Laws.

Rec. p. 93, par. 24, sub. 1.

It is alleged that the laws providing for a judicial determination of validity of assessments and taxation, are void,

for several reasons. Among others it is averred that the legislature assumes judicial duties, and pronounces decrees in tax cases, and that the court merely acts administratively. This objection is undoubtedly based on the pleadings and decree provided for in the tax laws. One citation will suffice for this purpose, as all the laws are similar.

Public Acts of 1889, Act 195, Sec. 53-57.

The form of the petition and decree is prescribed by the statute. But under section 56, provision is made for orders to be signed by the Judge setting aside illegal taxes.

Objection of this nature was made at an early day, and among the many objections it was alleged, "The act undertakes to make the proceedings in the Circuit Court in chancery, administrative instead of judicial." Justice Cahill, delivering the opinion of the Court, referring to the able opinion of Justice Cooley in a former case, held the law to be constitutional.

Auditor General v. Sloman, 84 Mich. 118.

As to the Auditor General, it is true that the tax law permits him to withhold a conveyance, or to issue certificate of error in certain cases specified in the statute, viz:

"First, That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or

Second, That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or

Third, That such sale was in contravention of any of the provisions of this act; or

Fourth, That a certificate that no taxes were charged

against said lands has been given by the proper officer, within the time limited by law for the payment or redemption thereof, the Auditor General shall withhold a conveyance of such lands, and shall, on demand, cause the money paid therefor to be refunded to the purchaser, with interest thereon at eight per cent per annum."

Public Acts of 1895, p. 298, Sec. 98.

The Supreme Court of the State have held however that his acts in this regard are ministerial.

Northrup v. Maneka, 126 Mich. 550.
Nowlen v. Hall, 128 Mich. 279.

Said section 98 was construed in 1903 in the case of Cole vs. Auditor General, 93 N. W. Rep. 890, overruling in part the case of Gurd v. Auditor General, 122 Mich. 151, and holding that the Auditor General could not issue a certificate of error upon a tax deed for lands if at the time of filing his petition the lands were held as state tax lands.

In the case of Cole v. Auditor General, supra, Justice Grant, delivered the opinion of the Court, saying in part, p. 893:

"The object of the statute, and of the chancery proceedings thereunder, would be largely nullified if the Auditor General had the power to inquire into all the proceedings anterior to the decree, and determine whether they were sufficient to give the court jurisdiction. We do not think the statute confers any such jurisdiction. If the legislature had intended to confer this extraordinary power upon the Auditor General, it would have been entirely unnecessary to specify the causes mentioned in subdivisions 1, 2, and 4. The genral power of subdivision 3, as claimed by respondent, or a

single general provision, would have covered the entire ground. To hold that the Auditor General is clothed with power to set aside the deeds for three reasons, numbered 1, 2, and 4, mentioned in section 98, and that subdivision 3 is limited to proceedings after decree, harmonizes the statute, and gives all its provisions a reasonable construction."

We submit that no question as to the 14th amendment can be raised in this matter.

Dreyer v. Illinois, 187 U. S. 71.

The case of Dreyer v. Illinois, supra, involved the indeterminate sentence law of the State of Illinois, and it was contended that the law violated the constitution of the State, which divided the powers of government into three distinct departments, legislative, executive and judicial, and other provisions of the constitution. The provisions of the constitution of Illinois cited in the opinion are so similar to the Michigan, that we quote the provisions of the Michigan constitution:

"Section 1. The powers of government are divided into three departments: The legislative, executive and judicial.

Section 2. No person belonging to one depa ment shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution."

Constitution of Michigan, Article III. Secs. 1 & 2.

"Section 1. The judicial power is vested in one supreme court, in circuit courts, in probate courts and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the legislature in cities.

Constitution of Michigan, Article VI, Section 1.

Mr. Justice Harlan delivering the opinion of the Court in Dryer v. Illinois, supra, said in part:

"Whether the legislative, executive, and judicial powers of a State shall be kept altogether distinct and separate, or whether persons or collections of persons belonging to one department may, in respect to some matters, exert powers which, strictly speaking, pertain to another department of government is for the determination of the State. And its determination one way or the other cannot be an element in the inquiry, whether the due process of law prescribed by the 14th amendment has been respected by the State or its representatives when dealing with matters involving life or liberty."

Order of Hearing.

Rec. p. 93, par. 24, sub. 2.

The bill assumes that the order of hearing provided by the tax law is a process, and avers the order lacks the constitutional words, "In the name of the People of the State of Michigan."

The form of the order is set forth in tax law of 1893.

1 Comp. Laws of 1897, Sec. 3885.
Public Acts of 1893, Act 206, Sec. 62.

The Supreme Court of the State, having under consideration different objections, held that an order which follows the prescribed form, is sufficient.

Waldron v. Auditor General, 109 Mich. 231.

Analogous cases have been decided by the Supreme Court of the State.

The drain law of 1885 required the Probate Court in proceedings to condemn a drain, to issue "a citation to all persons whose lands are traversed by such drain or who will be liable to assessment for benefits in the construction thereof, etc."

3 How. Ann Stats. Sec. 1740 c.

The citation was required to be addressed by name to resident owners, and provided further:

"If any lands involved are owned by non-residents of the township or townships, a copy of the citation, so far as it affects such lands, shall be published in some newspaper published and circulating in the county in which such lands are located, for at least two weeks previous to the day of hearing, which publication shall be deemed to be sufficient notice to all non-resident parties interested in such drain. The first publication of such notice shall be at least fourteen full days before the day of hearing, and proof of its publication shall be made as above provided in case of personal service."

3 How. Ann. Stats., Sec. 1740 cl.

The Supreme Court held that the object of the citation was to afford a hearing to the parties interested. It also held that the law did not require the citation to be issued under the seal of the Court, and that it was not such process as the constitution required to be in the name of the people.

Walpert v. Newcomb, 106 Mich. 357.

An early case in Michigan involved a warrant to a township treasurer, and it was contended that the tax rolls were

void because the warrant omitted the words of the constitution. The Court however sustained the position that the "common law definition of process is a writ issued by some court or officer exercising judicial powers."

Tweed v. Metcalf, 4 Mich. 588.

Suits may be commenced in Michigan by filing declaration and entering rule to plead. The declaration and rule however need not be "in the name of the People of the State of Michigan."

Penfold v. Slyfield, 110 Mich. 343.

To hold that an order of hearing omitting the words in question was void would revolutionize the practice in Michigan as to bringing in defendants by publication as allowed by other statutes.

1 Comp. Laws, Sec. 485-486.

Publication of Order of Hearing.

Rec. p. 93, par. 24, sub. 3-4-5.

The contention that Complainant was entitled to personal service of process, has been decided adversely to him, and the tax laws and decisions of the State Court show that the proceedings are in rem and against the land.

Auditor General v. Stiles, 83 Mich. 460.
Public Acts of 1882, Act 9, Sec. 57.
Public Acts of 1889, Act 195, Sec. 56.
Public Acts of 1891, Act 200, Sec. 56.
Public Acts of 1893, Act 206, Sec. 66.

We quote from Sec. 57 of the Act of 1882, which was followed in substance in this respect by the succeeding laws. "Such decree shall be considered as a several decree in favor of the State of Michigan against each parcel of land for each tax included therein."

Publication of an order of hearing has been held to be sufficient.

Cole v. Shelp, 98 Mich. 56.
Ball v. Ridge Copper Co., 118 Mich. 11.
Winona & St. P. Land Co. v. Minnesota, 159 U. S. 526.
Lent v. Tillotson, 140 U. S. 316.

Decree and Record.

Rec. p. 94, par. 24, Sub. 6-7-8.

We have shown that the judge signs tax decrees, and the tax laws are held valid by the Supreme Court in respect to the record of the decree.

Jenkinson v. Auditor General, 104 Mich. 34.
Merserau v. Miller, 112 Mich. 103.

Judicial Proceedings to Collect Taxes.

Rec. p. 94 par. 24, sub. 8.

It is averred that the proceedings inaugurated by the tax law of 1882 and followed by subsequent laws, excepting the tax law of 1885, are not due process of law. The tax law of 1882 was subjected to a thorough analysis in 1884.

State Tax cases, 54 Mich. 350, 417-456.

It will be seen by an examination of these cases that in the case of State of Michigan vs. Iron Cliffs Company, which came from the Circuit Court of Marquette County, in Chancery on appeal by the defendant, the law was sustained, at the June term of 1884 by an equal division of the Court. Justice Cooley writing for the law and Justice Champlin concurring. Justice Campbell writing against the law and Justice Sherwood concurring. In the other case coming from the Wayne Circuit the law had been held invalid by the lower court, and the Supreme Court at the April term of 1885 was evenly divided. The opinions of the Justices remained unchanged. The Tax law of 1889 was held constitutional by the Supreme Court.

Auditor General v. Sloman, 84 Mich. 118.

The tax law of 1893 has been attacked as unconstitutional in many respects, and has never been declared unconstitutional. It was claimed in one case to be unconstitutional because the tax record was allowed to go into the custody of the County Treasurer. The law was upheld by the Court.

Mersereau v. Miller, 112 Mich. 103.

In the case of Hooker v. Bond, 118 Mich. 256, the tax law of 1893 was attacked for several reasons, some of which were as follows:—

"1. The tax law of 1893 is unconstitutional, in that it permits landowners to be deprived of their property without due process of law.

2. The provision authorizing the issuance of the writ of assistance is void.

3. No demand for the payment of the taxes was made of the person liable to pay them.

4. The property was not assessed to the owner.

5. The collector did not seize and sell personal property to pay the tax.

6. No order pro confesso was ever entered.

7. No decree was made and entered of record in the proper book in the office of the register in chancery.

8. The decree does not contain a description of the property."

The law was sustained.

The Constitution of Michigan adopted in 1850 contained a provision similar to the 14th amendment, in that it provides that no person shall be "deprived of his life, liberty or property without due process of law."

1 Comp. Laws of 1897, p. 100, Sec. 32.

The tax law of 1893 was attacked because among other things, for want of due process of law, in that it did not provide for personal service on the tax payer of notice of hearing. The Law was sustained. The Court citing:

Winona Land Co. v. Minnesota, 159 U. S. 537.
Ball v. Ridge Copper Co., 118 Mich. 7.

We submit that the method of procedure has been settled to be in accord with the State constitution.

Exemptions.

Rec. p. 95, par. 25, sub. 4.

Exemptions allowed by the tax law are alleged to be a classification according to wealth. These exemptions are to be found in

Public Acts of 1893, p. 355-356-357.

The Supreme Court of the State has held that the legislature has the power of prescribing the subjects of taxation and of exemption.

The People v. Auditor General, 7 Mich. 84. (1859.)

The 14th Amendment does not prevent the exercise of this power of exemption.

Bells Gap v. Pennsylvania, 134 U. S. 232.
King v. Mullins, 171 U. S. 404.

Title of Tax Laws.

Rec. p. 95, par. 26.

It is averred that the tax laws, especially the law of 1893 and acts amendatory thereof, do not comply with the constitution of the State which requires that, "No law shall embrace more than one subject which shall be expressed in its title." That many of the laws are not purely amendatory but are repealing statutes, and are not so entitled, and that they prescribe periods of limitation for contesting tax titles and defining offenses, and providing penalties; objects which are not contained in the titles.

The Supreme Court of the State deciding a case, arising under the tax law of 1869, said that "Any provision, the object and tendency of which is to secure the collection of the public revenue, is germane to the general title above given."

Tillotson v. Circuit Judge, 97 Mich. 585-587.

The title of the tax law of 1889 has been sustained by the State Supreme Court.

Auditor General v. Stiles, 83 Mich. 460.

The tax law of 1885 contained 5 year limitation provisions. The title to the act was, "An Act to provide for the assessment of property and the levy and collection of taxes thereon."

Public Acts of 1885, p. 175, Act 153.

The case of St. Mary's Power Co. v. Chandler-Dunbar Water Power Co. 95 N. W. Rep. 554, was an action of ejectment, wherein the defense was five years' adverse possession under a tax deed issued in pursuance of that law. It was objected that the five year provision was void. Justice Hooker, delivering the opinion of the Court said p. 555:

"It is also urged that the provision is void for the reason that it is not germane to the title. In our opinion, this provision is an assurance well calculated to induce confidence in tax sales, and therefore within the rule."

The title to the tax law of 1893 was upheld in the case of Van Husan v. Heames, 96 Mich. 504. This law of 1893 prohibited deeds from record unless taxes were paid on the lands conveyed, and made a violation thereof a misdemeanor, and affixed a penalty not exceeding one hundred dollars.

Public Acts 1893, Act 206, p. 408, Sec. 135.

Justice Grant, delivering the opinion of the Court said p. 506:—

"Relator contends that this section is void, for the following reasons, viz.:

First. (a) The title to the act does not cover the section; (b) the act embraces more than one object.

Second. Its provisions cannot be complied with by the officers named.

Third. It is an unwarrantable infringement of property rights.

1. The evident purpose of the provisions of this section is to secure the collection of taxes, which is one of the general objects stated in the title to the act. We think, therefore, that the section cannot be held void, under section 20, art. 4, of the Constitution."

The Supreme Court of the United States follows the decisions of the highest State Court upon the question whether a statute is in accord with a state constitution.

Fallbrook Irrigation Dist. v. Bradley, 164 U. S. 112.
Gaines v. Stiles, 14 Pet. 322.

The title of the Act of 1897 amending the tax law, was held by the Supreme Court of the State not broad enough, and therefore void as to one section.

Savings Bank v. Aud. Gen'l, 123 Mich. 511.

Amendatory Act 154 of Public Acts of 1899 which created a Board of State Tax Commissioners has been held constitutional.

Board of State Tax Commissioners vs. Board of Assessors, 124 Mich. 491.
Board of State Tax Commissioners v. Quinn, 125 Mich. 128.

The amendatory acts to the tax law of 1893 relate to one subject, and that is the assessment of property, levy of taxes and collection thereof, and that there is a generality to the title, is no objection.

People v. Maheny, 13 Mich. 481.
Woodson v. Murdock, 22 Wall. 351.

Amount of Matter in Dispute.

County Treasurers.

One ground for the demurrer of County Treasurers is that it does not appear that the matter in dispute exceeds the amount of two thousand dollars, exclusive of interest and costs.

Rec. pp. 124-125-127-129-131.

It is averred that the matters and amount in dispute herein are the taxes assessed on the lands of complainant, and that the amount in each county is over two thousand dollars exclusive of all interest, costs and charges.

Rec. p. 85, par. 2.

The averment in the Bill is that "some lands of your Orator have been so homesteaded, that is placed upon the State homestead list."

Rec. p. 97, par. 28. Sub. 5.

There is no showing in the bill how many lands in each county remain off the homestead list. The averment in the bill as to some lands of complainant having been placed on the homestead list, allows the presumption that they have been deeded to the State "as to an individual" and are held by the Commissioner of the State Land office, and no County Treasurer has any duty, ministerial or otherwise, in regard to them. This can be seen by reference to the tax law of 1893, as amended.

Public Acts 1893, p. 406-7, Sec. 127 to 131.
Public Acts 1895, p. 301, Sec. 127.
Public Acts 1899, p. 150, Sec. 127.
Public Acts 1903, p. 110, Sec. 127.
Public Acts 1901, p. 188, Sec. 131.

The County Treasurer in one County has no concern with the taxes in another county, and taxes or tax titles in different counties cannot be joined to sustain jurisdiction.

Walter v. North Eastern R. Co. 145 U. S. 370.
City Bank v. Cannon, 164 U. S. 322.

We have already shown herein when discussing the question whether this was a suit against the State, that the Auditor General has no control over tax homestead lands.

State Land Office Commr. v. Aud. Genl., 91 N. W. Rep. 153.

In this case of Commissioner v. Aud. Gen'l, supra, said sections 127 and Sec. 127 as amended are quoted, and the law excludes County Treasurers and the Auditor General from any control over tax homestead lands.

It does not therefore appear in the Bill that there are tax lands in any one county, concerning which the County Treasurer can take any action, of the value of $2,000 exclusive of interest and costs, or upon which the taxes amount to $2,000, exclusive of interest and costs.

We submit there is no jurisdiction shown as to the County Treasurers, and again, if the Bill will not lie against the Auditor General, it will not lie against the County Treasurers.

Warner Valley Stock Co. v. Sec'y of Interior, 165 U. S. 28.

The Auditor General in his official capacity is the one against whom the principal relief is asked, and if any relief is asked against the County Treasurers, it is only incidental.

Successor in Office of Auditor General.

Perry F. Powers, who succeeded Roscoe D. Dix, as Auditor General assigned as one ground of demurrer that the amended bill would not lie against the successor in office of

Roscoe D. Dix, Auditor General of the State of Michigan. Rec. p. 122, Sub. 6. This position was sustained by the District Judge upon the authority of Warner Valley Stock Co. vs. Smith, 165 U. S. 28. Rec. p. 135.

Under the Act of Feb. 8, 1899, 1 Comp. Laws, p. 697, a suit against a head of department of the United States is not abated by reason of the expiration of his term of office, but this does not aid Complainant as to a State officer, and Complainant, should, we submit produce some statute of the State of Michigan similar to the U. S. Statute above cited, in order to justify a suit against the successor of Roscoe D. Dix.

Conclusion.

We submit for the foregoing reasons, and because of the long delay of the Complainant in presenting a complaint to the Court, that the decree of the Circuit Court be affirmed; but if the demurrers should be overruled, we desire leave to answer the Amended Bill.

Equity Rule 34.
United States v. Michigan, 190 U. S., p. 379.

CHARLES A. BLAIR,
Attorney General of the State of Michigan.
HENRY E. CHASE,
Deputy Attorney General.
JOHN H. GOFF,
Of Counsel for Defendants.

Supreme Court of the United States.

No. 261.—October Term, 1903.

Merritt Chandler, Appellant, vs. Roscoe D. Dix, Auditor General of the State of Michigan, James H. Kerr, County Treasurer of Alpena County, et al.	Appeal from the Circuit Court of the United States for the Eastern District of Michigan.

[May 31, 1904.]

Mr. Justice Holmes delivered the opinion of the Court.

This bill is not artificially drawn, but we take it to be primarily, at least, a bill to remove a cloud upon the plaintiff's title to certain lands which have been sold for taxes, brought upon the ground that the tax laws of Michigan for a series of years named were unconstitutional and deprived the plaintiff of his property contrary to the Fourteenth Amendment. The Circuit Court dismissed the bill on demurrer and the plaintiff appealed. The dismissal was so plainly right that it is less necessary than otherwise it might be to pick out and analyze the meagre allegations of fact from the much more lengthy suggestions and arguments of matter of law. It is to be gathered that all of the lands referred to have been sold, and that in some, if not all, cases the State was the purchaser under the State laws. It does not appear that the State has sold to any one else, or that, if it has, the purchaser is a party to the bill. It does appear that the State claims title and, it would seem, possession of a large part, if not all, of the lands. It does not appear by sufficient allegations that any defendant claims either possession or title.

It is obvious, without going further, that the bill cannot be maintained. The Auditor General and County Treasurer claim no interest in the land and have none in the question whether the State's title is good. The State's title, so far as appears, is the only one assailed. The State, therefore, is a necessary party, *Burrill* v. *Auditor General*, 46 Mich. 256, and, as this suit cannot be maintained against a State, the bill, so far as it seeks to have tax sales declared void, must be dismissed, whether it be admitted that Michigan is not represented, or be said that it is represented by the Auditor General. The plaintiff relies upon the Public Acts of Michigan, 1899, Act 97, adding § 144 to the general tax law of 1893. That Act provides that "the Auditor General shall be made a party defendant to all actions or proceedings instituted for the purpose of setting aside any sale

or sales for delinquent taxes on lands held as State tax lands, or which have been sold as such, or which have been sold at annual tax sales, or for purpose of setting aside any taxes returned to him and for which sale has not been made." But we are of opinion that if the foregoing words otherwise would apply to this case they should not be construed as expressing a waiver by the State of its constitutional immunity from suit in a United States Court. The provisions indicate that the legislature had in mind only proceedings in the courts of the State. A copy of the complaint is to be served upon the prosecuting attorney, who is to send a copy thereof within five days to the Auditor General, and this is to be in lieu of service of process. It then is left to the discretion of the Auditor General to cause the Attorney General to represent him, and it is provided that in such suits no costs shall be taxed. These provisions with regard to procedure and costs show that the statute is dealing with a matter supposed to remain under State control. Of course, a taxpayer denied rights secured to him by the Constitution and laws of the United States, and specially set up by him, could bring the case here by writ of error from the highest courts of the State. But the statute does not warrant the beginning of a suit in the Federal Court to set aside the title of the State. *Smith* v. *Reeves*, 178 U. S. 436, 445.

It is true that the statute deals also with suits for setting aside taxes for which sales have not been made, and that apart from the statute, injunctions against officers proceeding unconstitutionally under color of their office are well known. *Pennoyer* v. *McConnaughy*, 140 U. S. 1; *Fargo* v. *Hart*, decided at this term. It is true also that while the prayers of the bill are directed mainly to the setting aside of conveyances supposed to have been made before the filing of the bill, there is also a prayer that the defendants be enjoined from levying taxes on the lands, from selling them, or from taking further proceedings under the said laws. It seems to be the practice in Michigan to continue to assess lands sold for taxes while in the hands of the State, for reasons which are easily understood but do not need to be explained. It is unnecessary to consider whether an injunction could be granted against this without disposing of the title alleged by the State or whether sufficient foundation is laid for the prayer in the vague allegations of the bill. It is enough to say that, as the defendant Dix has retired from office, the bill must be dismissed. It does not appear upon the record that any amendment was sought to be made or that, if one had been offered, it could have been allowed. *Warren Valley Stock Co.* v. *Smith*, 165 U. S. 28. The case was disposed of properly by the Circuit Court on the foregoing grounds. Therefore the merits cannot be discussed.

Decree affirmed.